Office Supreme Court, U.S.
FILED
SEP 19 1981
ALEXANDER L. STEVAS,
CLERK

NO. 80-1290

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1980

WILLIAM P. CLEMENTS, JR., Governor
of the State of Texas, et al.,

Appellants,

v.

JOHN L. FASHING, et al.,

Appellees.

On Appeal from the
United States Court of Appeals
for the Fifth Circuit

APPELLEES' BRIEF ON THE MERITS

RAYMOND C. CABALLERO
521 Texas Avenue
El Paso, Texas 79901
915/542-4222
Attorney for Appellees

Of Counsel:

JOHN L. FASHING, Pro Se
JOSE J. BACA
512 Myrtle Avenue
El Paso, Texas 79901
915/532-1601

TABLE OF CONTENTS

	PAGE
Index of Authorities	ii
Statement of the Case	1
Summary of Argument	16
Argument	18
I. Article III, Section 19, and Article XVI, Section 65, violate the first amendment.	18
II. The right to be a candidate is a fundamental right under the first and fourteenth amendments to the United States Constitution.	26
III. Under any standard of review, Article III, Section 19, and Article XVI, Section 65, are invalid under the first and fourteenth amendments to the United States Constitution.	29
IV. Appellees have standing to bring this action.	44
Conclusion	46
Certificate of Service	47

INDEX OF AUTHORITIES

CASE:	PAGE
Beal v. Doe, 432 U.S. 438 (1977)	38
Broadrick v. Oklahoma, 413 U.S. 601 (1973)	23
Buckley v. Valeo, 424 U.S. 1 (1976)	29
Bullock v. Carter, 405 U.S. 134 (1972)	26,37
California Bankers Association v. Shultz, 416 U.S. 21 (1974) .	18
Centeno v. Inselman, 519 S.W.2d 889 (Tex.Civ.App. 1975)	42
Dandridge v. Williams, 397 U.S. 471 (1970)	18
De Jong v. Oregon, 299 U.S. 353 (1937)	18-19
Doran v. Salem Inn, Inc., 422 U.S. 922 (1975)	46
Gitlow v. New York, 268 U.S. 652 (1925)	18
Illinois State Board of Elections v. Socialist Workers Party, 440 U.S. 173 (1979)	38-39, 26,27 32
Lubin v. Panish, 415 U.S. 709 (1974)	28

Mancuso v. Taft,
476 F.2d 187 (1st Cir. 1973) 26

McDaniel v. Paty,
435 U.S. 618 (1978) 30

Michael M. v. Superior Court of
Sonoma County, 101 S.Ct. 1200
(1981) 35

Morial v. Judiciary Commission
of Louisiana, 565 F.2d 295 39,40,
(5th Cir. 1977) 43,44

Near v. Minnesota,
283 U.S. 697 (1931) 19

Quilloin v. Wolcott,
434 U.S. 246 (1978) 36

Rostker v. Goldberg,
49 L.W. 4798 (1981) 37

Steffel v. Thompson,
415 U.S. 452 (1974) 46

U.S. Civil Service Commission v.
National Association of
Letter Carriers, 413 U.S. 23,
548 (1973) 39,44

United States Railroad Retirement
Board v. Fritz, 101 S.Ct. 453
(1980) 37,38

Williams v. Rhodes,
393 U.S. 23 (1968) 26,36

Younger v. Harris,
401 U.S. 37 (1971) 46

OTHER:

Ahrens and Hauserman, Fundamental Election Rights: Association, Voting and Candidacy, 14 Valparaiso Law Review 465 (1980) 27

Braden, The Constitution of the State of Texas: An Annotated and Comparative Analysis (1978) 33

The Constitutionality of Resign-to-Run Statutes: Morial Judiciary Committee of Louisiana, 53 St. John's Law Review 571 (1979) 26-27

Gordon, The Constitutional Right to Candidacy, 25 Kansas Law Review 545 (1977) 27

42 U.S.C., Sec. 1983 46

Texas Constitution,
Art. III, Sec. 18 6
Art. III, Sec. 19 . . . . . passim
Art. XVI, Sec. 64 6
Art. XVI, Sec. 65 . . . . . passim

Texas Election Code, Sec. 14.01 . 19,21, 23,26

Texas Penal Code, Ch. 39 31,42

U. S. Constitution,
Amend. I 16,19
Amend. XIV 1,2,17

Vernon's Annotated Constitution of the State of Texas 5

STATEMENT OF THE CASE

Summary.

This is an appeal by the State of Texas from a per curiam opinion of the United States Court of Appeals for the Fifth Circuit which affirmed the judgment of the United States District Court for the Western District of Texas that Article III, Section 19 (III-19), and the last paragraph of Article XVI, Section 65 (XVI-65), of the Texas Constitution were invalid under the equal protection clause of the fourteenth amendment to the United States Constitution (J.A. 17-19).

The Complaint and the Parties.

The Plaintiff-Appellees filed this action seeking injunctive and declaratory judgment relief from the threatened enforcement of the mentioned provisions of the Texas Constitution on grounds that they were violative of the first and

fourteenth amendments of the United States Constitution.

The Plaintiff-Appellees are the following persons:

1. John L. Fashing - Judge, County Court at Law No. 2, El Paso County.

2. Jose J. Baca - Justice of the Peace, Precinct No. 3, El Paso County.

3. Walter McGhee - Justice of the Peace, Precinct No. 2, El Paso County.

4. C. Johnny Ybarra - Constable, Justice of the Peace Court No. 3, El Paso County.

5. El Paso County voters.

   a. Owen Short.
   b. Donovan Webb.
   c. Pat Haggerty.
   d. William V. Fashing.
   e. Loretta Doerr.
   f. Phillip E. Bargman.
   g. Herbert Ehrlich.
   h. Michael T. Milligan.
   i. Arthur Abraham.
   j. Sam Snoddy.

6. Harris County voters.

   a. Bill Eubank.
   b. Jim Heathman.

7. Roger L. Moore - Hudspeth County voter.

8. Justice of the Peace Precinct No. 3 voters.

   a. Lupe Manago.
   b. Juan S. Martinez.
   c. Frank Escobar.
   d. Luisa Ybarra.

9. Justice of the Peace Precinct No. 2 voters.

   a. C. John Galvan.
   b. James L. Lee.
   c. George C. Johnson.

The local defendants were the following persons, and they will hereafter be referred to as county officials:

1. T. Udell Moore - County Judge, El Paso County.

2. Clyde C. Anderson - Commissioner, Commissioner's Court, El Paso County.

3. Richard Telles - Commissioner, Commissioner's Court, El Paso County.

4. Rogelio Sanchez - Commissioner, Commissioner's Court, El Paso County.

5. Chuck Mattox - Commissioner, Commissioner's Court, El Paso County.

6. Mary R. Haynes - Chairperson, El Paso County Democratic Executive Committee.

Defendants who are Appellants here are referred to hereafter as state officials and are the following:

1. William P. Clements - Governor, State of Texas.

2. Mark White - Attorney General, State of Texas.

3. George Strake - Secretary of State, State of Texas.

All the county officials agreed with Appellees that III-19 and XVI-65 were unconstitutional. Those officials are not Appellants in this appeal. The state officials alone contested the case and they were all represented by the Attorney General of Texas. The Appellees and the state officials filed cross motions for summary judgment (J.A. 13), agreeing that there were no contested issues of fact. Affidavits and questions and answers to interrogatories constituted the evidence adduced in the case, in addition to legal arguments.

Article III, Section 19.

Article III, Section 19, of the Texas Constitution makes ineligible as potential candidates to the Texas legislature certain public officials, even if they resign their position if the term of the position resigned extends into the legislative term sought. Article III, Section 19, provides as follows:

> No judge of any court, Secretary of State, Attorney General, clerk of any court of record, or any person holding a lucrative office under the United States, or this State, or any foreign government shall during the term for which he is elected or appointed, be eligible to the Legislature.

Article III, Section 19, has always been part of the present Texas Constitution which was passed in 1876. It was also a part of the earlier 1845, 1861, 1866, and 1869 Constitutions. The interpretive commentary following III-19 in Vernon's Annotated Constitution of the State of Texas notes that the provision

was probably originally taken from a statute enacted by the British Parliament in 1701.

A legislator, on the other hand, is not ineligible to be a candidate for another office unless the office sought was either created or the emoluments of the office were increased during the legislative term served by the candidate. Article III, Section 18, Texas Constitution. The words "during the term for which he is elected or appointed" were added to the 1876 Constitution. It is that phrase which causes the problem; otherwise, the provision would merely prohibit dual office holding, a concept with which Appellees have no quarrel.

Article XVI, Section 65.

In 1954 the voters of Texas added Article XVI, Section 64, to the Texas Constitution in order to increase the terms of county and district officers from two to four years. At the same time

Section 65 was added so that the terms of some officers would be staggered and not all officers would be up for election at the same time. In 1958, XVI-65 was amended with the addition of the following paragraph, which is the only part of XVI-65 under attack in this case:

> Provided, however, if any of the officers named herein shall announce their candidacy, or shall in fact become a candidate, in any General, Special or Primary Election, for any office of profit or trust under the laws of this State or the United States other than the office then held, at any time when the unexpired term of the office then held shall exceed one (1) year, such announcement or such candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law in the same manner as other vacancies for such office are filled.

The XVI-65 resign-to-run rule applies to the following public officials:

a. District clerks
b. County clerks
c. County judges
d. Judges of county courts at law
e. Judges of county criminal courts

f. Judges of county probate courts
g. Judges of county domestic relations courts
h. County treasurers
i. Criminal district attorneys
j. County surveyors
k. Inspectors of hides and animals
l. County commissioners
m. Justices of the peace
n. Sheriffs
o. Assessors and collectors of taxes
p. District attorneys
q. County attorneys
r. Public weighers
s. Constables (J.A. 14-15).

Some of the elected officers to whom XVI-65 does not apply are as follows:

a. Governor
b. Lieutenant Governor
c. Comptroller of Public Accounts
d. Treasurer
e. Commissioner of the General Land Office
f. Attorney General
g. Railroad Commissioner
h. State legislators
i. Any justice or judge of all Texas appellate courts
j. District or criminal district courts
k. Family district courts
l. Juvenile courts
m. Corporation or municipal courts
n. Most mayors, city councilmen, school board members
o. Any judge or presiding officer of any special court (J.A. 15).

Article XVI, Section 65, provides that certain officials automatically

vacate their office if they announce as a candidate for any office other than the office they hold if they have more than one year remaining before the end of their term.

The Evidence Adduced.

The Appellees submitted the affidavits of 31 voters (R 148-213) in support of their motion for summary judgment (J.A. 1-2). The state did not controvert that evidence. In addition, affidavits were submitted by four Texas state district judges (R 158-164, 212-213), three former chairmen of the El Paso County Democratic Executive Committee (R 165-168, 177-178), a member of the Texas State Democratic Executive Committee (R 167-168), a former Democratic committeeman and treasurer of the Texas State Democratic Executive Committee (R 169-170), a former county judge of El Paso County, Texas, who in the past has been a member of the Texas legislature and

the Texas Board of Education (R 171-172), a former judge of the Municipal Court of El Paso, Texas, who was elected to the office of county commissioner while holding his judgeship without the burden of the resign-to-run rule (R 173-174), county clerk of El Paso County, Texas (R 175-176), a former county judge (R 177-178), and a judge of the Municipal Court of El Paso, Texas, who stands election for a two-year term in April of odd-numbered years (R 179-180). Each of the affidavits by the foregoing persons in part stated:

> I know of no Texas State interests that would justify or support the automatic resignation provision of Article XVI, Section 65, Texas Constitution, against the Plaintiffs' complaint, in light of the fact that such resign-to-run rule does not apply to all elected officials in Texas, and in particular to Texas State District Court Judges, Justices of the various Texas Appellate Courts and to Section 1, Article V, Texas Constitution, courts and the judges thereof that are not named in the resign-to-run rule.

A Fifth Texas District judge expressed his view of Article XVI, Section 65, in his summary judgment affidavit as follows:

> Without commenting on the issue of whether the provisions of the Texas Constitution that prohibit certain incumbent elected officials from becoming candidates for other political offices without forfeiting the office they then hold in unconstitutional under the United States Constitution, I submit that the Texas Constitution provision, because it tends to hinder the progress of able persons dedicated to public service while remaining employed as public servants is contrary to good principles of government. Such requirements tend to produce amateurism in public office. They also produce the tendency that all experienced political office holders have to be either personally wealthy or economically kept, because people of modest means who refuse to be supported by some political interest are unable to make a living while seeking advancement in their chosen profession of public service. (R 164).

Appellee Ybarra in his affidavit stated:

The only reason that I did not announce my candidacy for Justice of the Peace in the 1978 Democratic Primary Election against Plaintiff Baca and other candidates is that such an announcement of my candidacy would have caused my automatic resignation of my present office as mandated under Article XVI, Section 65, Texas Constitution. I would like to announce my candidacy for such Justice of the Peace Office in 1982, but will not do so once again because at my age of 59, and considering my financial condition, I could not afford to give up my Constable's office to run for Judgeship of the Court of which I am Constable. The reason I did not bring a suit such as this one to enable me to run in the May, 1978 Democratic Primary Election for Justice of the Peace is that I did not have the financial resources to do so and can only now be a plaintiff through the help of the other plaintiffs. Further, I did not become a candidate for Justice of the Peace in 1978 because I could not financially give up my office and seek said Judgeship without a job and I feel that with grass roots help I could have won the election for said Judgeship considering I had only 11 voting precincts to cover, but still even if I had won and been elected to that office, I would have no income and no financial resources to fall back upon until I took office as Justice of the Peace in January, 1979. (R 152).

By written interrogatory the state was asked to set out all the state interests that were furthered by III-19, and the state set out one: "Prevents conflicts of interest." (J.A. 4). When asked what state interest would support the distinction in treatment between a legislator and the holder of some other lucrative office, the state replied that a legislator had no conflict of interest once he or she left office (J.A. 11, No. 29), but the state did not explain what conflict of interest an office holder had once he or she resigned office to run for the legislature.

Appellees requested in interrogatories that Appellants list the differences between Section 65 office holders and non-Section 65 office holders that relate to the achievement of the objectives of the resign-to-run rule against only those office holders named in Section 65 (J.A. 4-6; Questions 3-8). In

answer, the Appellants stated that the legislature did not see fit to pass legislation comparable to Section 65 as to non-Section 65 office holders in 1949, and the question was not before the legislature in 1954 (Section 65 was added to the Texas Constitution in 1954, but the resign-to-run rule contained in the last sentence of Section 65 was not added until 1958). Appellants admitted in answers to interrogatories that the state objectives served by Section 65 are the same for non-Section 65 office holders as for Section 65 office holders (J.A. 6-7; Answers 9-15).

In reply to an interrogatory as to how Section 65 will insure the actual and perceived integrity of the Texas judiciary when that rule does not apply to all members of the Texas judiciary, the Appellants answered that legislature did not pass legislation comparable as to non-Section 65 members of the Texas

judiciary, and the question was not before the legislature in 1954 (J.A. 8; Questions-Answers 17-18). The Appellants gave similar answers to other interrogatories in connection with other objectives served by Section 65 (J.A. 9-11; Questions-Answers 20-21, 23-26).

Attached to this brief as an appendix are some materials explaining the court structure in the State of Texas and the jurisdiction of the various courts.

SUMMARY OF ARGUMENT

The right to candidacy, as part of the right of political expression and association, is an important if not basic political right entitled to protection under the first amendment to the United States Constitution. The right to candidacy is part of the right of a voter to express political ideas through a candidate who can carry out such political ideals. The right of candidacy is, furthermore, an important element in an individual's right to such expression. The right to candidacy is also the means by which most voters petition the government for redress of grievances. Any restriction on the right to candidacy must, therefore, be in furtherance of a vital or compelling state interest.

Article III, Section 19, and Article XVI, Section 65, of the Texas Constitution create classifications among the various

office holders involved, which classifications impose restrictions on the right of candidacy for some of the office holders and not for others. In order to be valid, the classifications must further some vital or compelling state interest, or at least there must be some rational basis for the classifications so created, depending on the standard of review employed.

Regardless of the standard of review used, the classifications created by III-19 and XVI-65 are invalid under the equal protection clause of the fourteenth amendment to the United States Constitution. The difference in treatment does not further the stated objectives of the state. There are other available and existing methods to achieve any stated objective. The provisions are so drafted that they unnecessarily burden important political rights.

ARGUMENT

I. ARTICLE III, SECTION 19, AND ARTICLE XVI, SECTION 65, VIOLATE THE FIRST AMENDMENT.

Although the courts below held III-19 and XVI-65 unconstitutional only under the fourteenth amendment equal protection clause, this Court may affirm that decision on another, separate basis. Dandridge v. Williams, 397 U.S. 471 (1970); and California Bankers Association v. Schultz, 416 U.S. 21, 71 (1974).

The first amendment provides that "Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." The fourteenth amendment due process clause makes the first amendment applicable to the states. Gitlow v. New York, 268 U.S. 652 (1925); De Jong v.

Oregon, 299 U.S. 353 (1937); and Near v. Minnesota, 283 U.S. 697 (1931).

The provisions of the Texas Constitution in question run afoul of first amendment guarantees in several ways. Article XVI, Section 65, for example, provides that by the mere announcement of candidacy for any other office, a Section 65 office holder automatically resigns his or her own office. The effect of XVI-65 is to restrict the right of free speech of a Section 65 office holder. Under the Texas Election Code, Section 14.01, one may become a candidate for office by a "public announcement of a definite intent to run" or by the mere act of soliciting support. This ability to "test the waters" enjoyed by any other citizen may be exercised by a Section 65 office holder only by risking the automatic resignation of the office held.

It is beyond doubt that anyone has the right under the first amendment to voice criticism of an office holder. An office holder has the same right. Probably the most effective criticism of an office holder is the threat to oppose the office holder by supporting an opposing candidate. This would obviously include the right of the opposing candidate to voice an intent to run for office or to solicit support. A Section 65 office holder cannot speak freely of a desire to oppose another, because by the mere solicitation of support a candidacy has been declared. This constitutes a restriction on the right of free speech.

For example, both district and county attorneys in Texas are subject to XVI-65. In general the district attorney prosecutes felonies and the county attorney prosecutes misdemeanors. Suppose a county attorney wished to oppose an incumbent district attorney. The

incumbent could run and retain his or her office during that candidacy. The challenger, however, could not retain office and become a candidate if more than one year remained in his or her term. This is a severe restriction under the Texas Election Code. Under the Code one must file for an office no later than the first Monday in February of an election year, a date eleven months away from the actual start of the term of office. So even if the county attorney's own term of office expired at the end of 1982, for example, and he or she wished to run for the district attorney's term which was to commence on January 1, 1983, the county attorney could only test the waters between January 1, 1982, and the first Monday in February of 1982, a period of no more than 37 days. Any active solicitation of support prior to January 1 of the election year would cause the

county attorney to lose the office automatically.

Article XVI, Section 65, effectively might keep the county attorney out of the race entirely, and it certainly would curtail that person's right to speak freely prior to January 1 of the election year.

This curtailment of a possible candidate's ability to "test the waters," an essential, though informal, part of the political process, is unnecessary. Many persons contemplate political office; few actually file to run. Article XVI, Section 65, limits even a tentative inquiry by a XVI-65 office holder who contemplates running for another office, since the price to be paid for a mere inquiry is potentially so devastating.

Although the first amendment is phrased as an absolute prohibition, this Court has approved some limited restrictions on the right of some persons

to express political beliefs and to engage in political activities because of other, overriding governmental objectives. U.S. Civil Service Commission v. National Association of Letter Carriers, 413 U.S. 548 (1973); and Broadrick v. Oklahoma, 413 U.S. 601 (1973).

The first amendment right to petition a government for redress of grievances is also involved in this case under both III-19 and XVI-65. What more meaningful way does one have to petition for redress than to become a candidate? Are not most petitions presented through an elected representative? Access to the government is usually gained through a representative. An office holder may be representing a viewpoint espoused by others, but also the representative is being an advocate for his or her own personal views, which views might coincidentally be shared with others. Therefore, a candidacy for public office

can be the most effective means of expressing a political belief or in presenting a grievance to the government. The restriction of that right by limiting access to the ballot in fact restricts core first amendment values.

Article III-19 makes ineligible for the Texas legislature virtually any office holder whose term extends into the legislative term sought. For example, assume Appellee Jose Baca, a justice of the peace holding a four-year term (1978-1982), decided midway through his term to run for the state legislature in 1980. Even if Judge Baca resigned his office, eliminating even the possibility of a conflict of interest, III-19 makes him absolutely ineligible to run.

Article III-19 applies to any holder of an office for pay--for example, mayors and members of city councils. In Texas, many if not all municipal elections are held in odd years. Again, assuming a

mayor holding office from 1981 to 1983, for example, desired to run for the legislature in 1982, even if he or she resigned the office, III-19 would make them ineligible.

In effect, the legislature has removed as possible challengers virtually every office holder in Texas while imposing on a legislator no reciprocal prohibition.

The state argues that it is not a real burden on a legislator to run for another office, since they are only regularly in session for five months every odd year. Odd years are when municipal elections are held, so it would pose a burden for a legislator to run for municipal office, yet they can do so freely.

II. THE RIGHT TO BE A CANDIDATE IS A FUNDAMENTAL RIGHT UNDER THE FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

The first amendment expressly prohibits any restriction on a person's right to speak, assemble, or to petition the government for a redress of grievances. Those are considered "core" or fundamental first amendment rights. The right to vote is considered to be part of those rights. Williams v. Rhodes, 393 U.S. 23 (1968); and Illinois State Board of Elections v. Socialist Workers Party, 440 U.S. 173 (1979).

Although this Court has never expressly held the right of candidacy to be one of the core first amendment rights, Bullock v. Carter, 405 U.S. 134 (1972), we respectfully submit that the right to be a candidate is a fundamental right. See, Mancuso v. Taft, 476 F.2d 187 (1st Cir. 1973). See also, The Constitutionality of

Resign-to-Run Statutes: Morial v. Judiciary Commission of Louisiana, 53 St. John's Law Review 571 (1979); Ahrens and Hauserman, Fundamental Election Rights: Association, Voting and Candidacy, 14 Valparaiso Law Review 465 (1980); and Gordon, The Constitutional Right to Candidacy, 25 Kansas Law Review 545 (1977).

In Illinois State Board of Elections v. Socialist Workers Party, supra, at p. 184, this Court stated:

> Access restrictions [to the ballot] also implicate the right to vote because, absent recourse to referendums, 'voters can assert their preferences only through candidates or parties or both.' Lubin v. Panish . . . . By limiting the choices available to voters, the State impairs the voters' ability to express their political preferences. And for reasons too self-evident to warrant amplification here, we have often reiterated that voting is of the most fundamental significance under our constitutional structure.

This Court has found it difficult to separate the right of a voter to express a political preference and the right of an individual to be a candidate. In Lubin v. Panish, 415 U.S. 709 (1974), this Court held:

> The interests involved are not merely those of parties and individual candidates; the voters can assert their preferences only through candidates or parties or both and it is this broad interest that must be weighed in the balance. The right of a party or an individual to a place on the ballot is entitled to protection and is intertwined with the right of the voters.

So, under current law, while the right to candidacy has not been classified as a fundamental right, no one has been able to draw any meaningful distinction between admittedly basic political rights and the right to candidacy. It is respectfully suggested that in such a close case the Court should indulge in a presumption which would accord as much protection as possible to a right.

III. UNDER ANY STANDARD OF REVIEW, ARTICLE III, SECTION 19, AND ARTICLE XVI, SECTION 65, ARE INVALID UNDER THE FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

Inasmuch as III-19 and XVI-65 do impose some burdens on the right of candidacy and because the right of candidacy should be a fundamental right, the standard of review should be that set out by the Court in Buckley v. Valeo, 424 U.S. 1 (1976). In Buckley v. Valeo, this Court stated:

> In several situations concerning the electoral process, the principle has been developed that restrictions on access to the electoral process must survive exacting scrutiny. The restriction can be sustained only if it furthers a 'vital' governmental interest, American Party of Texas v. White, 415 U.S. 767, 780-781, 94 S.Ct. 1296, 1305-1306, 39 L.Ed.2d 744 (1974), that is 'achieved by a means that does not unfairly or unnecessarily burden either a minority party's or an individual candidate's equally

> important interest in the continued availability of political opportunity.' 424 U.S. at p. 94.

Under the first amendment, III-19 places a substantial burden on the right of candidacy. Concurring in McDaniel v. Raty, 435 U.S. 618 (1978), Justice White wrote:

> Our cases have recognized the importance of the right of an individual to seek elective office and accordingly have afforded careful scrutiny to regulations burdening that right. 435 U.S. at p. 644.

The state interest asserted is that III-19 prevents conflicts of interest. In the first place, what is the nature of the conflict of interest asserted? If it is that a candidate would misuse the facilities of the office presently held while running for the legislature, does not the incumbent legislator suffer from the same conflict? In any event, even if a candidate resigned so as to remove even the possibility of a conflict of interest,

III-19 would still prevent the candidacy.[1] The prohibition, therefore, is too broad for the objective sought, even assuming that the objective were legitimate. The unnecessary restriction on protected activities makes the statutes overbroad and therefore invalid under the first and fourteenth amendments to the U. S. Constitution.

In the case of XVI-65 the state asserts that Section 65 prevents an office holder from misusing an office while running for another office. Perhaps it is in preventing such a potential abuse that the state finds a compelling objective. The problem is that many office holders

---

[1]Moreover, the Texas Penal Code discourages misuse or abuse of office by making such conduct punishable as a crime. Chapter 39, Texas Penal Code. Other injudicious conduct not rising to the level of a crime can be made the subject of disciplinary action under the Code of Judicial Conduct of the State of Texas.

are exempt from the restrictions of XVI-65 while subject to the same supposed temptations and conflicts.

To be compelling, to use a dictionary definition, means "to urge irresistibly." Can an objective be so compelling and irresistible, yet never be applied to another group which ostensibly would be subject to the same pressures? The record discloses no effort or movement since 1958 to apply the stated objective to non-Section 65 office holders.

Assuming for the moment that the objectives advanced by the state are vital or compelling, none of those objectives supports the classification created by XVI-65. "When such vital individual rights are at stake, a State must establish that its classification is necessary to serve a compelling interest." Illinois State Board of Elections v. Socialist Workers Party, 440 U.S. at p. 184.

There must be a substantial justification for the difference in treatment. In Braden, The Constitution of the State of Texas: An Annotated and Comparative Analysis[2] (1978), p. 813, a publication co-edited by one of the attorneys for the state here, the following was stated regarding the XVI-65 proviso:

> The proviso discriminates, with no apparent legitimate reason, against elected precinct, county, and district officials. (See also Art. XI, Sec. 11, which contains an identical proviso applicable to municipal officials.) If it is thought generally that office-holders should forfeit their positions when they announce for other office, the provision should apply to members of the legislature and statewide elected officials as well as to those named in this section.
>
> If the officeholder waits until the last year of his term to announce for the new office, his old office is not forfeited.

---

[2]The state cites this publication at p. 6 of its brief.

> This one-year period might be unrealistic if applied to statewide and federal offices, in view of the trend in recent years toward longer campaigns for those offices.

Those authors were unable to find any "legitimate" reason for the classification. In its brief on the merits in this case the state makes the chauvinistic assertion that local or county officials are for some reason more susceptible to temptation to which state office holders are also exposed. One sitting in Austin is somehow made wiser and more honest than another living and working in El Paso, Ft. Stockton, or Amarillo. The interests put forth by the state largely boil down to the statement that provincials are less honest.[3] We submit that the reason for the statute was mere oversight and not the

---

[3]In fact XVI-65 does not even lend itself to the clean cut local vs. statewide distinction made because some local offices are not covered by XVI-65,

asserted objective. This Court may reject an asserted reason for a law "if it could not have been a goal of the legislation . . ."[4] Michael M. v. Superior Court of Sonoma County, 101 S.Ct. 1200, 1205 (1981).

The state argues at page 15 of its brief that XVI-65 should not be applicable to statewide offices such as Attorney General because those persons are so unlikely to run for anything but a federal office. A correction is in order. Former Appellee and Attorney General, John Hill, ran for Governor in 1978 and lost. He was

---

for example, district judges and municipal court judges which have greater and lesser jurisdiction, respectively, than county courts at law or justice of the peace courts.

[4]The position that the classification constitutes a bill of attainder of the local officials is more fully discussed in the brief filed by the Amicus Curiae County Court at Law Judges Association of the State of Texas. Appellees adopt those arguments here.

able to run for the Governorship long before January 1, 1978, because XVI-65 was not applicable to him. One of the problems with XVI-65 is that even if one intends to run for a different office at the end of a term, XVI-65 gives one only 37 days to test the waters, an unreasonable restriction.

The state also raises for the first time in this brief numerous supposed state interests which were never mentioned in the lower courts and which were not developed in the record. Those interests should not be raised at this late date when they could have been explored below. Quilloin v. Wolcott, 434 U.S. 246 (1978), N. 13.

Although the rights of voters to be heard "is at the core of the right of political association," Williams v. Rhodes, 393 U.S. 23, 39-40 (1968) (concurring opinion), the classification of such rights is not subject to a "neat

separation." Bullock v. Carter, 405 U.S. 134, 142-143 (1972). Even if we are not dealing with core or fundamental rights, we are undoubtedly dealing with important rights. So in the application of some less stringent standard of review the state must still demonstrate whether the burdens or restrictions imposed on the important right to be a candidate imposed by III-19 and XVI-65 have some rational relation to a legitimate governmental interest. Rostker v. Goldberg, 49 L.W. 4798, 4801 (1981); and U. S. Railroad Retirement Board v. Fritz, 101 S.Ct. 453 (1980).

It was under this standard of review that the district court in this case found that the XVI-65 "classification fails to serve any proper governmental interest, and it is constitutionally impermissible." (J.A. 18). Nor did the district court find any reasonable relation between the

III-19 restriction and a legitimate governmental objective (J.A. 19).

In attempting to decide cases under this two tier approach, courts have recognized that the initial determination of fundamental or non-fundamental often decided the case. This Court is becoming increasingly uncomfortable about deciding these cases on the basis of a semantical twist. In Rostker v. Goldberg, supra, at p. 4802, the Court wrote:

> We do not think that the substantive guarantee of due process or certainty in the law will be advanced by any further 'refinement' in the applicable tests as suggested by the Government. Announced degrees of 'deference' to legislative judgments, just as levels of 'scrutiny' which this Court announces that it applies to particular classifications made by a legislative body, may all too readily become facile abstractions used to justify a result.

See also, Beal v. Doe, 432 U.S. 438, 457 (1977) (dissent by Justice Marshall); and Illinois State Board of Elections v.

Socialist Workers Party, supra, at p. 188 (concurrence by Justice Blackmun).

The en banc decision in Morial v. Judiciary Commission of the State of Louisiana, 565 F.2d 295 (5th Cir. 1977), based on this Court's U. S. Civil Service Commission v. National Association of Letter Carriers, supra, presented a practical standard of review for this type of case. The Court stated:

> The standard to be applied in any case is a function of the severity of impairment of first amendment interests. As the burden comes closer to impairing core first amendment values, e.g. the right to hold particular political views, Elrod v. Burns, supra, 427 U.S. at 355, 96 S.Ct. at 2681, or impairs some given first amendment value more substantially, Buckley v. Valeo, supra, 424 U.S. at 19-23, 96 S.Ct. at 635-36, the requisite closeness of fit of means and end increases accordingly. The teaching of Letter Carriers, considered as a part of the jurisprudence of the first amendment and not some anomalous class of 'Hatch Act cases,' is that restrictions on the partisan political activity of public employees and officers,

> where such activity contains substantial non-speech elements, see United States v. O'Brien, 391 U.S. 367, 88 S.Ct. 1673, 20 L.Ed.2d 672 (1968), are constitutionally permissible if justified by a reasonable necessity, see Bullock v. Carter, 405 U.S. 134, 144, 92 S.Ct. 849, 31 L.Ed.2d 92 (1972), to burden those activities to achieve a compelling public objective. 565 F.2d at p. 300.[5]

Under the rule in Morial there is no necessity in attempting to pigeonhole the important right here as fundamental or nonfundamental. The importance of the rights should, of course, be taken into consideration. The nature of the

---

[5]The Court of Appeals noted the test it proposed was different from the Court's and stated:

> We recognize, of course, that the Supreme Court has not articulated the applicable test in precisely this way. Nonetheless, the Court's reasoning and its holdings in cases closely analogous to that at bar support the appropriateness of a variable standard of scrutiny dependent upon the character and substantiality of the impairment of first amendment interests. 565 F.2d at p. 300, fn. 5.

political rights involved in this case has already been discussed above. While this Court does not expect perfect legislation or constitutional revisions to result from imperfect political processes, under the test, tolerance for imperfection decreases as the nature of the right becomes more basic. The fit of the regulation to the end sought to be achieved must also be closer as the burdens on the right involved become more onerous. Another factor which is obviously involved is whether there are available to the state less restrictive means of achieving the same objectives.

With respect to this last point, the state has not sought to demonstrate that the admitted imperfection in the provisions involved here are necessary because no other means were available. In fact, it is apparent that not only are other means available, some are in place and working. For example, the

Constitution already prohibits dual office holding under Article XVI, Section 40, which provides for the automatic relinquishment of the first office held upon the acceptance and qualification of the second office. Centeno v. Inselmann, 519 S.W.2d 889 (Tex. Civ. App. 1975). The provisions of the Code of Judicial Conduct and the Texas Penal Code have already been noted.

The burden imposed upon potential candidates by III-19 is obvious and is substantial, the total disqualification for an office if one holds another office. The state has not attempted to state so much as one point to support the reasonableness of III-19 in the case of a person who wishes to run for the legislature and has resigned an office to do so. With respect to those persons who hold office while being candidates for the legislature, XVI-65 would cause most of them to lose their office automatically.

Even if XVI-65 were held invalid, the argument of the state that an unsuccessful legislative candidate might use the powers of an executive or judicial office to punish supporters of an opponent does not apply in the case of office holders who are legislators of sorts themselves, such as members of city councils or those many office holders covered under XVI-65, like constables and county commissioners who are neither executive nor judicial.

The price of forced relinquishment of an office held is a high price to pay "for tossing one's hat in the ring." Morial, supra, at p. 301. It is a particularly burdensome price to pay for those who are economically less fortunate and who have no other means of support while running for another office. As such, XVI-65 creates a suspect classification which is based on economic means and which discriminates against the poor and in favor of the wealthy. Appellee Ybarra has

testified that he would be a candidate for the office of justice of the peace but cannot afford to lose his office in the interim period (R 152). See also the testimony of Judge Sam Callan, supra at p. 11.

Article III, Section 19, and XVI-65 fail under the Letter Carriers-Morial standard on all counts. They do not constitute the least restrictive means available to the state in order to minimize the burdens on protected rights. They are not supported by legitimate state objectives. They are not drafted in such a manner to restrict their effect as close as possible to the objectives sought, even assuming that those objectives were reasonable and legitimate. In balancing the interests sought to be achieved against the restrictions on constitutionally protected activities, the burdens placed are too great for the benefits expected.

IV. APPELLEES HAVE STANDING TO BRING THIS ACTION.

The state argues that Appellees do not have standing in this case, claiming that the mere possibility of the enforcement of III-19 and XVI-65 is insufficient and that there must be "patent inevitability" and not merely a hypothetical threat. In this case the threat is not merely hypothetical, for at least two candidates, Rose B. Spector and Raymond Wietzel, Judges of the County Courts at Law Numbers 5 and 3, respectively, of Bexar County, Texas, apparently filed for office under the protection of the ruling of the district court here. They attempted to intervene in this action after the district court issued the judgment, but their motion to do so was denied.

Even if no one sought office so as to trigger the application of III-19 and XVI-65, Appellees have standing to

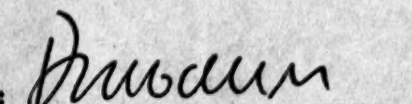
challenge the laws. Preconduct challenges to laws under 42 U.S.C. Section 1983 have been recognized for some time in order to protect important rights. Doran v. Salem Inn, Inc., 422 U.S. 922 (1975); Steffel v. Thompson, 415 U.S. 452 (1974); and Younger v. Harris, 401 U.S. 37 (1971).

CONCLUSION

For all the foregoing reasons, Appellees urge this Court to affirm the decision and judgment of the United States Court of Appeals for the Fifth Circuit. In the event of the affirmance of the decision below, Appellees would request a remand of the case to the district court for a determination of appropriate attorneys' fees in this case.

Respectfully submitted,

RAYMOND C. CABALLERO
521 Texas Avenue
El Paso, Texas 79901
(915) 542-4222
ATTORNEYS FOR APPELLEES

By: 
RAYMOND C. CABALLERO

Of Counsel:

JOHN L. FASHING, Pro Se
JOSE J. BACA
512 Myrtle Avenue
El Paso, Texas 79901
(915) 532-1601

CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing brief were mailed to James Allison, Assistant Attorney General, P. O. Box 12548, Capitol Station, Austin, Texas, 78711; and to Gary Ahrens, Texas Tech School of Law, Lubbock, Texas.

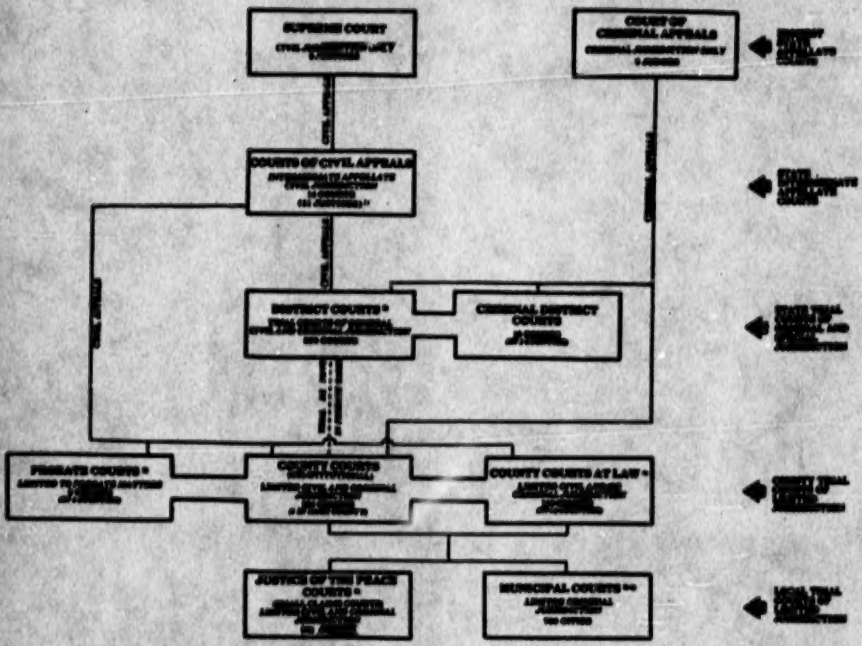
RAYMOND C. CABALLERO

APPENDIX

JUDICIAL BRANCH
OF
TEXAS

THE COURT STRUCTURE OF TEXAS

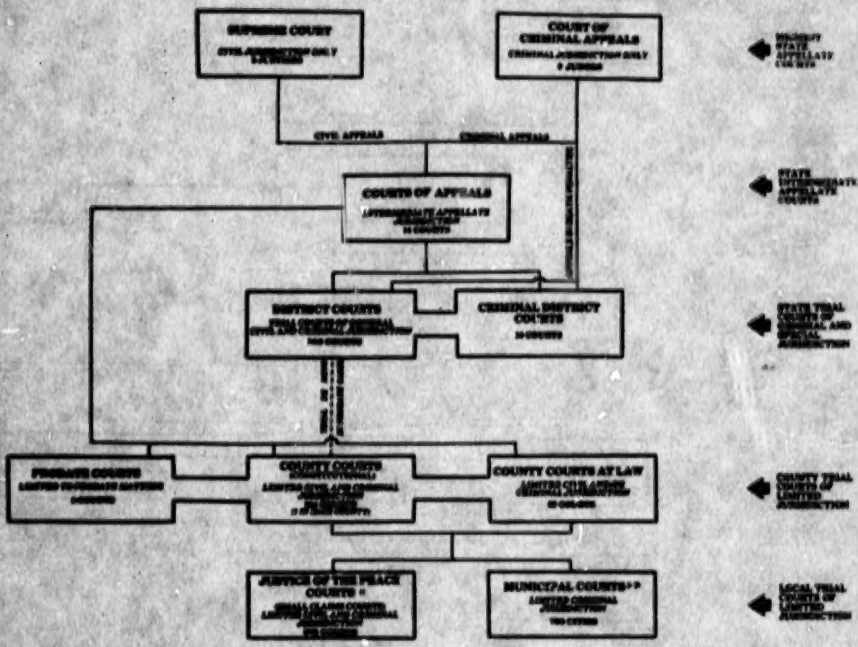
JANUARY 1, 1981



PREPARED BY
THE OFFICE OF COURT ADMINISTRATION
P. O. BOX 12066
AUSTIN, TEXAS 78711
512/475-3450

THE COURT STRUCTURE OF TEXAS

SEPTEMBER 1, 1961*



* [illegible]

* [illegible]

* [illegible]

PREPARED BY
THE OFFICE OF COURT ADMINISTRATION
P. O. BOX 12066
AUSTIN, TEXAS 78711
512-475-2421

THE COURT STRUCTURE OF TEXAS
JANUARY 1, 1981
Descriptive Outline

The present court structure of Texas, established by the constitutional amendment of 1891, provides for a Supreme Court which is the highest state appellate court in civil matters and a Court of Criminal Appeals which is the highest state appellate court in criminal matters. It has fourteen intermediate courts of civil appeals. There is no intermediate court for criminal appeals from trial courts, such appeals going directly from the trial courts to the Court of Criminal Appeals in Austin.*

The state trial courts of general jurisdiction are the district courts, which in some metropolitan areas have been established as courts having primarily civil, criminal, domestic relations, or juvenile jurisdiction. It should be noted that the geographical jurisdiction of each individual district court is established by the specific statute creating that court, and such jurisdiction does not necessarily correspond to any previously established court. Each court has one judge.

In addition to the above state courts, the Texas Constitution provides for a county court in each county presided over by the county judge. To relieve the docket congestion of the single constitutional county courts the legislature has established probate courts and county courts at law in certain counties.

The Texas Constitution also provides for justice of the peace courts in each county. Since 1953, these justice courts also serve as small claims courts.

The legislature has created by statute municipal courts in each incorporated city. These courts have concurrent criminal jurisdiction with the justice of the peace courts limited to the geographic confines of the municipality.

Trial in the justice of the peace courts and most municipal courts is not of record, and appeals therefrom are on trial de novo to the county court except in those counties having statutory county courts at law or where by statute the district court has assumed portions of the county court's jurisdiction.

The state provides full funding for the Supreme Court, the Court of Criminal Appeals, and the Austin Court of Appeals. It provides a base salary for the appellate and district judges of this state. Certain counties supplement this base salary for district and intermediate appellate judges. Counties pay the costs of "constitutional" county courts, county courts at law, justices of the peace, and operating costs of district courts except the judge's basic salary. The cities finance the municipal courts.

H.B. 338 of the 66th Legislature, the general appropriations bill, appropriated $26,347,393 in general revenue funds for the operation of the judiciary in fiscal year 1980. This represents less than one percent of the $3,740,831,069 total general revenue funds appropriated.

SUPREME COURT(1)

1. Jurisdiction: The Supreme Court of Texas has state-wide final appellate jurisdiction in civil and juvenile cases, and has general responsibility for the efficient operation of the Texas Judicial System. It is empowered to make and enforce all necessary rules of civil practice and procedure for the Judicial System, and to promulgate rules of administration to provide for the efficient administration of justice in the State. This Court has original jurisdiction to issue writs and to conduct proceedings for the involuntary retirement or removal of all judges in the State.

   In addition to its major responsibilities of hearing oral arguments, deciding cases appealed to it, and writing opinions, the Supreme Court has many administrative duties placed upon it by the Legislature to ensure the efficient administration of justice by the Texas Judicial System. These duties include:

   - Promulgating the Rules of Civil Procedure for the Texas Judicial System. (Article 1731a)
   - Promulgating Rules of Administration for the Texas Judicial System. (Article 1738b)
   - Equalizing the dockets between the 14 courts of civil appeals. (Article 1738)
   - Promulgating the Rules of Procedure for the Commission on Judicial Conduct and disciplining or removing judges from office. (Article V, sec. 1a, Tex. Const.)
   - Supervising the operations of the State Bar of Texas and the rules and regulations for the admission, discipline, supervision, and disbarment of lawyers, and approving the law schools of the State. (Articles 304, 306, 302a-1)
   - Promulgating disciplinary rules for the Texas Prosecutor's Coordinating Council. (Article 332d)
   - Promulgating the rules for the operations

*[illegible]

of the Texas Court Reporters Committee and the disciplinary rules enforced by this Committee. (Article 2390b)

The Chief Justice has the responsibility of:
- Conferring with the Presiding Judges of the Administrative Judicial Districts to promote the expedient dispatch of judicial business. (Article 200a)
- Assigning of judges between Administrative Judicial Districts to promote the expedient dispatch of judicial business. (Article 200a)
- Finally, the Chief Justice is required to deliver a "State of the Judiciary" message at the commencement of each regular session of the Legislature. (Article 3428h)

2. Seat: Austin
3. Membership:
   a. Number: One Chief Justice and 8 Justices
   b. Selection: Partisan, state-wide election. Vacancies between elections filled by gubernatorial appointment with advice and consent of the Senate.
   c. Qualifications: Citizen of the United States and of Texas; age 35; a practicing lawyer, or lawyer and judge of a court of record together for at least ten years.
   d. Salaries:

Chief Justice:	
eff. 9-1-80	$60,100
eff. 3-1-81	$63,105
Justices:	
eff. 9-1-80	$59,600
eff. 3-1-81	$62,640

   e. Term: Six year, overlapping terms.

COURT OF CRIMINAL APPEALS(1)
1. Jurisdiction: The Court of Criminal Appeals has state-wide final appellate jurisdiction in criminal cases and the power to issue writs.
2. Seat: Austin
3. Membership:
   a. Number: One Presiding Judge and 8 other judges.
   b. Selection:
      (1) Presiding Judge and judges are elected in partisan state-wide elections. Vacancies between elections are filled by gubernatorial appointment with advice and consent of the Senate.
      (2) The Court has authority to appoint commissioners.
   c. Qualifications: Citizen of the United States and of Texas; age 35; a practicing lawyer, or lawyer and judge of a court of record together for at least ten years.
   d. Salaries:

Presiding Judge:	
eff. 9-1-80	$60,100
eff. 3-1-81	$63,105
Judges:	
eff. 9-1-80	$59,600
eff. 3-1-81	$62,640

   e. Term: Six year, overlapping terms.

COURTS OF CIVIL APPEALS(14)*
1. Jurisdiction: Intermediate appellate jurisdiction in civil cases only from trial courts in each respective geographic district, called "Supreme Judicial Districts." Limited original writ jurisdiction.
2. Seats: 1st District, Houston
   2nd District, Fort Worth
   3rd District, Austin
   4th District, San Antonio
   5th District, Dallas
   6th District, Texarkana
   7th District, Amarillo
   8th District, El Paso
   9th District, Beaumont
   10th District, Waco
   11th District, Eastland
   12th District, Tyler
   13th District, Corpus Christi
   14th District, Houston
3. Membership:
   a. Number: One Chief Justice and two associate justices per court, except the 1st and 14th (Houston), and 5th (Dallas), which each have five associate justices, for a total of 31 justices state-wide.
   b. Selection: Partisan elections from supreme judicial districts. Vacancies between elections filled by gubernatorial appointment with advice and consent of the Senate.
   c. Qualifications: Citizen of the United States and of Texas; age 35; a practicing lawyer, or lawyer and judge of a court of record together for at least ten years.
   d. Salaries paid by the State:

Chief Justices:	
eff. 9-1-80	$60,700
eff. 3-1-81	$63,266
Associate Justices:	
eff. 9-1-80	$60,200
eff. 3-1-81	$62,760

*[illegible]

Supplements may be paid by the counties in the districts, not to exceed $8,000 per year and total salary must be $1,000 less than received by Supreme Court justices ($300 in the case of chief justices).

e. Term: Six years.

DISTRICT COURTS(310)

1. Jurisdiction: There are 310 separate district courts, identified by separate numbers, each having its own judge and geographical jurisdiction. In a number of areas, the geographical jurisdiction of two or more district courts is overlapping.

District courts are trial courts of general jurisdiction, having original jurisdiction in all criminal cases of the grade of felony, cases of divorce, title to land, contested elections, and all civil matters wherein the amount in controversy is $3,000 or more and concurrent jurisdiction with statutory county courts at law in cases of at least $500 and not exceeding $5,000. (In the counties which have no statutory county courts at law, district courts have exclusive original jurisdiction in civil cases wherein the amount in controversy is $1,000 or more and concurrent jurisdiction with the county court in cases of at least $500 and not exceeding $1,000.)

The district courts have original and appellate jurisdiction in probate matters and general supervisory control over commissioners court. In addition, these courts have general original jurisdiction over all causes of action whatever for which a remedy or jurisdiction is not provided by law or by the Constitution, and have the power to issue writs of habeas corpus, mandamus, injunction, certiorari, sequestration, attachments, garnishment, and all writs necessary to enforce their jurisdiction.

Most district courts exercise both criminal and civil jurisdiction, but in the metropolitan areas there is a tendency for the courts to specialize in either civil, criminal or family law cases. In some cases, the courts which have criminal jurisdiction exclusively are designated criminal district courts.

A limited number of district courts also exercise the subject-matter jurisdiction normally exercised by county courts.

Appeals from judgments of the district courts are to the Court of Criminal Appeals in criminal cases and to the Courts of Civil Appeals in civil cases.*

2. Seats: At the county seat of each county included in each respective geographical district.

3. Membership:

a. Number: One judge per court.

b. Selection: Partisan district-wide elections. Vacancies between elections filled by gubernatorial appointment with advice and consent of the Senate.

c. Qualifications: Citizen of the United States and of Texas; resident of the district for two years; age 25; licensed to practice law in Texas and a practicing lawyer or judge for four years.

d. Salaries paid by the State:

eff. 9-1-80 $42,500
eff. 9-1-81 $44,625

Supplements authorized by statute may be paid by counties, ranging to $17,000 per year. Total salary must be $1,000 less than received by associate justices of the Court of Civil Appeals of the Supreme Judicial District.

e. Term: Four years.

"CONSTITUTIONAL" COUNTY COURTS(254)

1. Jurisdiction: The Texas Constitution provides that there shall be a county court in each county, but not all 254 courts perform judicial functions. The county court has civil, criminal, original and appellate jurisdiction. It has concurrent legal authority with justice of the peace courts in civil cases when the contested amount is $200-$500, and it has concurrent civil jurisdiction with the district court in cases when the amount exceeds $500 but is less than $1,000. The county court also usually has general control over probate cases. In criminal cases, the county court has exclusive original jurisdiction over all misdemeanors when the fine to be imposed exceeds $200 or when a jail sentence may be imposed.

Unless expressly provided by law, the county court does not have criminal jurisdiction in any county where a criminal district court exists. Decisions from the municipal and justice courts may be appealed to the county court, and the appeal takes the form of a completely new trial (trial de novo). Original and appellate judgments of the county court may be appealed to the Court of Civil Appeals in civil cases and to the Court of Criminal Appeals in criminal cases.*

Geographical jurisdiction: County-wide.

2. Seats: County seat of county of jurisdiction.

*[illegible]

3. Membership:
   a. Number: One judge per court.
   b. Selection: County-wide partisan election with vacancies between elections filled by county commissioners.
   c. Qualifications: "Shall be well-informed in the law of the State." (Law license unnecessary).
   d. Salaries: Paid entirely by the county. Highly variable.
   e. Term: Four years.

The commissioners court is not a judicial entity; rather it is the governing body of the county. It is presided over by the constitutional county judge and includes four elected commissioners. Although it performs no judicial duties, the commissioners court can issue writs and contempt citations.

COUNTY COURTS AT LAW(116)

1. Jurisdiction: The Legislature has the authority to create special county courts. One hundred eighteen of these statutory courts have been created in forty-eight counties, primarily in metropolitan areas, to relieve the constitutional county judge of all or part of his judicial duties. The legal jurisdiction of the special county courts varies considerably according to the statute under which they are created. As the varied names suggest, some of these courts are intended to exercise in practice subject-matter jurisdiction in only limited fields, such as civil, criminal, probate or appellate (from justice courts or municipal courts); but the names do not always disclose their complete functions. In general, the concurrent civil jurisdiction of these statutory courts with the district court is higher than constitutional county courts.

   Geographical Jurisdiction: County-wide.

Anderson(1) — County Court at Law
Bell(2) — County Court at Law No. 1; County Court at Law No. 2
Bexar(5) — County Court at Law No. 1; County Court at Law No. 2; County Court at Law No. 3; County Court at Law No. 4; County Court at Law No. 5
Brazoria(2) — County Court at Law No. 1; County Court at Law No. 2
Brazos(1) — County Court at Law
Cameron(2) — County Court at Law No. 1; County Court at Law No. 2
Collin(2) — County Court at Law No. 1; County Court at Law No. 2
Comal(1) — County Court at Law
Dallas(16) — County Court at Law No. 1; County Court at Law No. 2; County Court at Law No. 3; County Court at Law No. 4; County Court at Law No. 5; County Court at Law No. 6; County Court at Law No. 7; County Court at Law No. 8; County Court at Law No. 9; County Court at Law No. 10; County Criminal Court No. 1; County Criminal Court No. 2; County Criminal Court No. 3; County Criminal Court No. 4; County Criminal Court No. 5; County Criminal Court No. 6; County Criminal Court No. 7; County Criminal Court No. 8; County Criminal Court No. 9; County Criminal Court No. 10; County Criminal Court of Appeals; County Criminal Court of Appeals No. 2; Probate Court of Dallas County; Probate Court No. 1 of Dallas County; Probate Court No. 2 of Dallas County
Denton(2) — County Court at Law; County Court at Law No. 2
Ector(1) — County Court at Law
El Paso(4) — County Court at Law No. 1; County Court at Law No. 2; County Court at Law No. 3; County Court at Law No. 4
Fort Bend(1) — County Court at Law
Galveston(3) — County Court No. 1; County Court No. 2; Probate and County Court
Grayson(2) — County Court at Law; County Court at Law No. 2
Gregg(1) — County Court at Law
Guadalupe(1) — County Court at Law
Harris(17) — County Civil Court at Law No. 1; County Civil Court at Law No. 2; County Civil Court at Law No. 3; County Civil Court at Law No. 4; County Criminal Court at Law No. 1; County Criminal Court at Law No. 2; County Criminal Court at Law No. 3; County Criminal Court at Law No. 4; County Criminal Court at Law No. 5; County Criminal Court at Law No. 6; County Criminal Court at Law No. 7; County Criminal Court at Law No. 8; County Criminal Court at Law No. 9; County Criminal Court at Law No. 10; Probate Court No. 1 of Harris County; Probate Court No. 2 of Harris County; Probate Court No. 3 of Harris County
Harrison(1) — County Court at Law
Hays(1) — County Court at Law
Henderson(1) — County Court at Law
Hidalgo(3) — County Court at Law; County Court at Law No. 2; County Court at Law No. 3
Houston(1) — County Court at Law
Hunt(1) — County Court at Law
Jefferson(2) — County Court at Law; County Court of Jefferson County at Law No. 1
Lubbock(2) — County Court at Law No. 1; County Court at Law No. 2
McLennan(2) — County Court at Law; County Court at Law No. 2
Medina(1) — County Court at Law
Midland(1) — County Court at Law
Montgomery(1) — County Court at Law No. 1
Nacogdoches(1) — County Court at Law
Nueces(3) — County Court at Law; County Court at Law No. 2; County Court at Law No. 3
Orange(1) — County Court at Law
Potter(2) — County Court at Law; County Court at Law No. 2
Randall(1) — County Court at Law
Rusk(1) — County Court at Law
Smith(2) — County Court at Law; County Court at Law No. 2
Tarrant(7) — County Court at Law No. 1; County Court at Law No. 2; Tarrant County Criminal Court No. 1; Tarrant County Criminal Court No. 2; Tarrant County Criminal Court No. 3; Tarrant County Criminal Court No. 4; Probate Court of Tarrant County

Taylor(1)	County Court at Law	
Terrell(1)	County Court at Law	
Travis(2)	County Court at Law	No. 1
	County Court at Law	No. 2
	County Court at Law	No. 3
	County Court at Law	No. 4
Tyler County(1)	County Court at Law	
Upshur(1)	County Court at Law	
	County Court at Law	No. 2
Upton(1)	County Court at Law	
Uvalde(1)	County Court at Law	
Val Verde(1)	County Court at Law	
Van Zandt(1)	County Court at Law	
Victoria(1)	County Court at Law	
Walker(1)	County Court at Law	
Waller(1)	County Court at Law	
Ward(1)	County Court at Law	
Washington(1)	County Court at Law	
Webb(1)	County Court at Law	
Wharton(1)	County Court at Law	
Wheeler(1)	County Court at Law	
Wichita(1)	County Court at Law	
Wilbarger(1)	County Court at Law	
Willacy(1)	County Court at Law	
Williamson(1)	County Court at Law	
Wilson(1)	County Court at Law	
Winkler(1)	County Court at Law	
Wise(1)	County Court at Law	
Wood(1)	County Court at Law	
Yoakum(1)	County Court at Law	
Young(1)	County Court at Law	
Zapata(1)	County Court at Law	
Zavala(1)	County Court at Law	

(1) Authorized but not active as of 1-1-81
(2) Authorized for future effective date

2. Seats: County seat of county of jurisdiction.
3. Membership:
   a. Number: One judge per court.
   b. Selection: County-wide partisan election with vacancies between elections filled by county commissioners.
   c. Qualifications: Vary according to court-creating statute, some include two to five years experience as practicing attorney and requirement of residence in county.
   d. Salaries: Paid entirely by the county. Highly variable.
   e. Terms: Four years.

JUSTICE OF THE PEACE COURTS(972)

1. Jurisdiction: The Texas Constitution provides that each county is to be divided into at least 4, and not more than 8 justice precincts, in each of which shall be elected one justice of the peace, provided that if the precinct includes a city of 8,000 or more inhabitants, one additional justice of the peace shall be elected from such precinct.

   Justice of the peace courts have original jurisdiction in criminal cases when the fine does not exceed $200. They have jurisdiction of civil matters when the amount in controversy does not exceed $200. A justice of the peace may issue warrants of search and arrest, conduct preliminary hearings, serve as ex officio notary public, perform marriages, and serve as coroner in counties were there is no provision for a medical examiner. The justice court also functions as a small claims court in disputes over unpaid wages and salaries when the contested amount does not exceed $200 and in controversies over uncollected bills when the amount does not exceed $150.

2. Seats: Determined by county commissioners.
3. Membership:
   a. Number: One judge per court.
   b. Selection: Partisan elections by voters of respective precincts.
   c. Qualifications: None.
   d. Salaries: Paid entirely by the county. Highly variable.
   e. Terms: Four years.

MUNICIPAL COURTS

1. Jurisdiction: Authorized by statute, municipal courts are operating in 700 cities and towns. Metropolitan cities usually have more than one municipal court. These courts have neither civil nor appellate jurisdiction, but they have original and exclusive jurisdiction over violations of city ordinances (predominately traffic offenses). The municipal courts also have concurrent jurisdiction with justice courts in misdemeanor cases resulting from violations of state laws within the city limits when punishment is limited to fines only of $200 or less. Municipal judges also serve as magistrates of the state.

   Trials in all but seven municipal courts are not of record, with appeals therefrom going to the county court, the county court at law or the district court upon trial de novo. The municipal courts of El Paso, Houston, Longview, Lubbock, Midland, Sweetwater and Wichita Falls are courts of record with appeals on the record perfected in the municipal court.
2. Seats: Determined by the city or town.
3. Membership:
   a. Number: Generally, one court per municipality and one judge per court. Statutes allow some city governing bodies to establish more than one court and/or more than one judge per court. A recent survey identified 863 municipal judicial positions in the state.
   b. Selection: Elected or appointed by the governing body of the city or town as provided by city charter or ordinance.
   c. Qualifications: Determined by the governing body of the city or town.
   d. Salaries: Paid entirely by the city or town. Highly variable.
   e. Terms: Varies from one year to an indefinite term. Often at the will of the governing body of the city or town.

JUDICIAL AGENCIES

1. Office of Court Administration (Art. 2328b). The 60th Legislature (1977) created the state office of Court Administration to assist the Supreme Court and Chief Justice in administrative matters. The law also directs the Supreme Court to promulgate rules of administration and to appoint an administrative director of the courts who serves under the direction and supervision of the Chief Justice and as an additional duty of office, to serve as Executive Director of the Texas Judicial Council. The Administrative Director is directed to consult with various court administrative officers to encourage a more efficient operation of the Texas judicial system and to aid judges, clerks and court coordinators in this regard.

2. Texas Judicial Council (Art. 2320a). Created in 1929, the 18-member Texas Judicial Council is charged with making a continuous study of the organization and operation of the courts. The Council reviews and considers proposals on ways to improve the administration of justice and formulates methods for simplifying judicial procedures. The Council gathers judicial statistics from all levels of courts and makes a detailed annual report to the Governor and to the Supreme Court.

3. Texas Court Reporters Committee (Art. 2324b). The 65th Legislature (1977) enacted a law requiring court reporters to be certified by the Supreme Court and established a Court Reporters Committee to administer tests on the qualifications set out in the Act, collect fees, certify applicants to the Supreme Court, and revoke certificates for unprofessional conduct (appealable to the district court). The Committee is composed of an active district judge who serves as chairman; two members of the Bar; three active official court reporters; and three active freelance reporters; who are appointed by by the Supreme Court for six year terms. The Office of Court Administration performs administrative staff functions for the Committee.

4. State Commission on Judicial Conduct. The Texas Constitution empowers this Commission to consider complaints against any justice or judge concerning acts or conduct which are clearly inconsistent with the proper performance of his duties or which cast public discredit upon the judiciary or administration of justice. The Commission may, if it deems necessary, initiate removal proceedings or take actions for the involuntary retirement of justices or judges who are disabled to the extent that they are unable to perform their duties, or when their disability is likely to become permanent in nature. Members of the Commission consist of two appellate justices, two district judges, one justice of the peace, two attorneys, and four lay members.

NUMBER OF JUDGES IN THE TEXAS JUDICIAL SYSTEM

January 1, 1981

COURT	NO. OF JUDGES
Supreme Court	9
Court of Criminal Appeals	9
Courts of Civil Appeals	31
District Courts	310
County Courts at Law	115
"Constitutional" County Courts	254
Justice of the Peace Courts (Est.)	972
Municipal Courts (Est.)	863
TOTAL JUDGES	2,363

SUBJECT-MATTER JURISDICTION OF TEXAS COURTS
JANUARY 1, 1981

INTRODUCTION

The present court system of Texas, established by the constitutional amendment of 1891, provides for a Supreme Court which is the highest state appellate court for civil matters and a Court of Criminal Appeals which makes the final determination in criminal matters. The state has fourteen intermediate courts of civil appeals. There are no intermediate appellate courts for criminal matters, such appeals going directly from the trial courts to the Court of Criminal Appeals in Austin.*

The state trial courts of general jurisdiction are the district courts, of which there are 310. (Ten of these courts are named "Criminal District Courts," but as will be noted later, only three are strictly limited only to criminal cases on the district level.)

The geographical jurisdiction of each individual district court is established by the specific statute creating that court, and that jurisdiction does not necessarily correspond to the jurisdiction of any previously established court. Each court has one judge. The state pays the judge's base salary and some expenses.

In addition to these state courts, the Texas Constitution provides for a county court in each county presided over by the county judge, who also serves as head of the county commissioners court, the governing body of the county. To relieve the docket of the single "constitutional" county court in each county, the legislature has established statutory county courts at law in 48 counties. As of January 1, 1981, there are eight probate courts and 110 county courts at law. (One of these courts is authorized, but not implemented by the county in which it is located as of January 1, 1981. Two additional courts have been created by the legislature with effective dates at some time in the future.)

The Texas Constitution also provides for a minimum of four justice of the peace courts in each county. Today there are 972 of the justice of the peace courts statewide. Since 1953, these justice courts have also served as small claims courts.

The legislature has created by statute municipal courts in each incorporated city in the state. These courts have original jurisdiction over purported violations of municipal ordinances and concurrent criminal jurisdiction over state violations with the justice of the peace courts, limited to the geographical confines of the municipality.

Trial in the justice of the peace and municipal courts (with seven exceptions) is not of record, and appeals therefrom are on trial de novo to the county court except in certain counties noted later, where the appeal is to a county court at law or to a district court.

Jurisdiction of the various levels of courts is established both by constitutional provision and by statute. Statutory jurisdiction of the courts is established by general statutes providing jurisdiction for all courts on a particular level, as well as by the statute establishing the individual courts. Thus to determine the jurisdiction of any one particular court, recourse must be had first to the constitution, second to the general statutes establishing jurisdiction for that level of court, third to the specific statute authorizing the establishment of the particular court in question and fourth to statutes dealing with specific subject matters, such as the Family Code, which requires a lawyer-judge to hear appeals from actions by non-lawyer judges in juvenile cases.

APPELLATE COURTS

As previously indicated, the Supreme Court is the court of last resort in the state in civil matters. It also has original jurisdiction to issue writs and conduct proceedings for the involuntary retirement or removal of any judge in the state. It is empowered to make rules for the administration of justice, rules of civil practice and procedure for use in all courts having civil jurisdiction and rules governing the licensing of members of the bar of the state. The Court of Criminal Appeals has final state appellate jurisdiction in criminal cases and may issue writs to enforce its judgments. The courts of civil appeals are the intermediate appellate courts of the state, limited however to civil matters.*

* [illegible]

The constitutional power to establish "other courts" (Tex. Const. art. V, sec. 1) apparently does authorize the legislature to establish special district courts with criminal jurisdiction only. Ex Parte Richards, 137 Tex. 520, 155 S.W. 2d 597 (1941). A statute limiting the jurisdiction of a district court to criminal matters was recognized by a court of civil appeals. Cook v. Hollis, 498 S.W. 2d 455 (Tex. Civ. App. - Houston [1st] 1973, no writ). In a similar situation, the Court of Criminal Appeals did not comment on the question. Pittman v. State, 434 S.W. 2d 352 (Tex. Crim. App. 1968).

Several district courts with their jurisdiction so limited have been created, but at this time, only three courts are limited to exclusively criminal district-level jurisdiction:

- Criminal District Court No. 1 of Tarrant County (arts. 1925-41, 1925-42a)
- Criminal District Court No. 2 of Tarrant County (art. 1925-43)
- Criminal District Court No. 3 of Tarrant County (art. 1925-44)

2

Four others are limited to criminal, divorce, dependent and neglected children, adoption and civil habeas corpus proceedings:

- Criminal District Court of Dallas County (arts. 1925-11, 1925-22)
- Criminal District Court No. 2 of Dallas County (arts. 1925-13, 1925-22)
- Criminal District Court No. 3 of Dallas County (arts. 1925-14, 1925-16, 1925-22)
- Criminal District Court of Jefferson County (arts. 1925-61, 1925-62)

3

As will be noted later, other "Criminal District Courts" cannot be categorized as having only district-level criminal jurisdiction because they also have concurrent jurisdiction with county-level courts in certain matters.

While the courts have ruled the legislature may not limit the jurisdiction of regular district courts, the statutes in various ways express the intention of the legislature that certain district courts give their primary attention to only a portion of those matters over which they have jurisdiction. These courts are instructed to "give preference" to criminal cases and the statutes further provide that only criminal cases are to be filed in those courts:

- 144th (Bexar) - art. 199(37)
- 175th (Bexar) - art. 199(37)
- 187th (Bexar) - art. 199a, sec. 3.014

4

In the same manner, seven district courts are to give preference to civil cases and civil cases only are to be filed in those courts:

- 37th (Bexar) - art. 199(37)
- 45th (Bexar) - art. 199(37)
- 57th (Bexar) - art. 199(37)
- 73rd (Bexar) - art. 199(37)
- 131st (Bexar) - art. 199(37)
- 150th (Bexar) - arts. 199(37), 199(150)
- 166th (Bexar) - art. 199(37)

5

Perhaps less stringent is the simple statutory instruction that certain courts are to "give preference" to certain matters, with no further restrictions. Thirty courts are thusly instructed to give preference to criminal cases:

- 105th (Nueces) - art. 199(105)
- 107th (Cameron, Willacy) - art. 199(107)
- 138th (Cameron, Willacy) - art. 199(138)
- 147th (Travis) - art. 199(147)
- 182nd (Harris) - art. 199a, sec. 3.010
- 183rd (Harris) - art. 199a, sec. 3.011
- 184th (Harris) - art. 199a, sec. 3.012
- 185th (Harris) - art. 199a, sec. 3.013
- 194th (Dallas) - art. 199a, sec. 3.021
- 195th (Dallas) - art. 199a, sec. 3.022
- 197th (Cameron, Willacy) - art. 199a, sec. 3.024

6

DISTRICT-LEVEL COURTS

While the jurisdiction of the appellate courts is quite uniform for each level, that of the various trial court levels is not. To meet the diversified characteristics of the state, the legislature has established varying jurisdiction for the same level of courts depending on the location or local needs.

Broadly, the district courts are the general trial courts for the state, having original jurisdiction in all criminal cases of the grade of felony, cases of divorce, title to land, contested elections and all civil matters wherein the amount in controversy is $1,000 or more. The district court has concurrent civil jurisdiction with the "constitutional" county court in cases of at least $500. In those counties having statutory county courts at law, the district courts by general law have exclusive jurisdiction in civil cases wherein the amount in controversy is $5,000 or more and concurrent jurisdiction with the statutory county courts at law in cases of at least $500 and not to exceed $5,000.*

In 1971, all "constitutional" county courts were divested of eminent domain jurisdiction (art. 3266a), which was placed in the district courts and county courts at law. The statute did not transfer any eminent domain cases pending in the "constitutional" county court on the effective date of the act, therefore, some county courts are continuing to dispose of eminent domain matters filed before 1971. This article lists several instances where eminent domain jurisdiction was transferred from the county court by "special" law pertaining to only one county. In some instances, this transfer was prior to 1971 and in others pending eminent domain cases were transferred. These situations are to be contrasted with the 1971 general statute which transferred jurisdiction of "new" eminent domain cases.

The Supreme Court has repeatedly held that the legislature cannot reduce the jurisdiction of a constitutional district court. Lord v. Clayton, 163 Tex. 62, 352 S.W. 2d 718 (1961); Ramos v. State, 308 S.W. 2d 819 (Tex. Crim. App. 1974). Ex Parte Richards, 137 Tex. 330, 155 S.W. 2d 397 (1941); Rasmussen v. Rasmussen, 122 Tex. 372, 58 S.W. 2d 817 (1933); St. Louis S. W. Ry. v. Hall, 98 Tex. 460, 85 S.W. 786 (1905). See also Castro v. State, 124 Tex. Crim. 13, 60 S.W.2d 211 (1933) and dissenting opinion in Ex Parte Rasmussen, 430 S.W. 2d 209 (Tex. Crim. App. 1968). In Lord v. Clayton, the Supreme Court held that although the statute creating the 136th District Court of Jefferson County expressly limited its jurisdiction to civil cases and other legislation purported to give exclusive jurisdiction in criminal cases to the criminal district court of Jefferson County, the 136th Court was nevertheless a constitutional district court with full power to impanel a grand jury, receive an indictment, and try the accused.

Presently the state statutes purport to limit the jurisdiction of 18 district courts to civil matters only:

14th (Dallas) - art. 1926-11

17th (Tarrant) - arts. 199(17), 199(153)

44th (Dallas) - art. 1926-11

48th (Tarrant) - arts. 199(17), 199(153)

58th (Jefferson) - arts. 199(58), 199(136)

60th (Jefferson) - arts. 199(58), 199(136)

67th (Tarrant) - arts. 199(17), 199(153)

68th (Dallas) - art. 1926-11

95th (Dallas) - art. 1926-11

96th (Tarrant) - arts. 199(17), 199(153)

101st (Dallas) - art. 1926-11

116th (Dallas) - art. 1926-11

134th (Dallas) - art. 1926-11

135th (Calhoun, Goliad, Jackson, Refugio, Victoria) - art. 199(135)

136th (Jefferson) - arts. 199(58), 199(136)

153rd (Tarrant) - arts. 199(17), 199(153)

156th (Aransas, Bee, Live Oak, McMullen, San Patricio) - art. 199(156)

160th (Dallas) - art. 1926-11

*The concurrent civil jurisdiction of some county courts at law has by special statute been increased to $10,000, and others to $20,000.

202nd (Bowie) - art. 199a, sec. 3.033(b)

203rd (Dallas) - art. 199a, sec. 3.030

204th (Dallas) - art. 199a, sec. 3.031

205th (Culberson, El Paso, Hudspeth) - art. 199a, sec. 3.032

207th (Caldwell, Comal, Hays) - art. 199a, sec. 3.035(b)

208th (Harris) - art. 199a, sec. 3.036

209th (Harris) - art. 199a, sec. 3.037

214th (Nueces) - art. 199a, sec. 3.042

Criminal District Court No. 4 of Tarrant County (art. 1926-46)

226th (Bexar) - art. 199a, sec. 3.053

227th (Bexar) - art. 199a, sec. 3.054

228th (Harris) - art. 199a, sec. 3.055

230th (Harris) - art. 199a, sec. 3.056

232nd (Harris) - art. 199a, sec. 3.058

248th (Harris) - art. 199a, sec. 3.073

252nd (Jefferson) - art. 199a, sec. 3.078

262nd (Harris) - art. 199a, sec. 3.088

263rd (Harris) - art. 199a, sec. 3.089

265th (Dallas) - art. 199a, sec. 3.091

} 6

Four courts are similarly instructed to give preference to civil cases:

103rd (Cameron, Willacy) - art. 199(107)

215th (Harris) - art. 199a, sec. 3.043

224th (Bexar) - art. 199a, sec. 3.051

225th (Bexar) - art. 199a, sec. 3.052

} 7

Nine district courts are to give preference to family law matters:

231st (Tarrant) - art. 199a, sec. 3.057

233rd (Tarrant) - art. 199a, sec. 3.059

245th (Harris) - art. 199a, sec. 3.070

246th (Harris) - art. 199a, sec. 3.071

247th (Harris) - art. 199a, sec. 3.072

254th (Dallas) - art. 199a, sec. 3.080

255th (Dallas) - art. 199a, sec. 3.081

256th (Dallas) - art. 199a, sec. 3.082

257th (Harris) - art. 199a, sec. 3.083

} 8

One court is directed by statute to give first preference to family law cases and second preference to criminal cases:

148th (Nueces) - art. 199a, sec. 3.031

} 9

The 63th Legislature (1977) converted all functioning domestic relations and special juvenile courts to district courts of general jurisdiction. However, these 31 courts are to "have primary responsibility for cases involving family law matters":

300th (Brazoria) - art. 1926a, sec. 2.01

301st (Dallas) - art. 1926a, sec. 2.02

302nd (Dallas) - art. 1926a, sec. 2.03

303rd (Dallas) - art. 1926a, sec. 2.04

304th (Dallas) - art. 1926a, sec. 2.05

305th (Dallas) - art. 1926a, sec. 2.06

306th (Galveston) - art. 1926a, sec. 2.07

307th (Gregg) - art. 1926a, sec. 2.08

308th (Harris) - art. 1926a, sec. 2.09

309th (Harris) - art. 1926a, sec. 2.10

310th (Harris) - art. 1926a, sec. 2.11

311th (Harris) - art. 1926a, sec. 2.12

} 10

312th (Harris) - art. 1926a, sec. 2.13
313th (Harris) - art. 1926a, sec. 2.14
314th (Harris) - art. 1926a, sec. 2.15
315th (Harris) - art. 1926a, sec. 2.16
316th (Hutchinson) - art. 1926a, sec. 2.17
317th (Jefferson) - art. 1926a, sec. 2.18
318th (Midland) - art. 1926a, sec. 2.19
319th (Nueces) - art. 1926a, sec. 2.20
320th (Potter) - art. 1926a, sec. 2.21
321st (Smith) - art. 1926a, sec. 2.22
322nd (Tarrant) - art. 1926a, sec. 2.23
323rd (Tarrant) - art. 1926a, sec. 2.24
324th (Tarrant) - art. 1926a, sec. 2.25
325th (Tarrant) - art. 1926a, sec. 2.26
326th (Taylor) - art. 1926a, sec. 2.27
327th (El Paso) - art. 1926a, sec. 2.28
328th (Fort Bend) - art. 1926a, sec. 2.29
329th (Wharton) - art. 1926a, sec. 2.30
330th (Dallas) - art. 1926a, sec. 2.31

10

The other statutory provision observed above - that of limiting the types of cases which can be filed in a particular court - is used alone in several instances. Such a restriction is probably not mandatory on the clerk of the court. Lord v. Clayton, 663 Tex. 42, 3[illegible] S.W. 2d 718 (1961). The statutes provide that [illegible] fourteen courts, civil cases only are to be filed:

11th (Harris) - art. 199(11)
55th (Harris) - art. 199(11)
61st (Harris) - art. 199(11)
80th (Harris) - art. 199(11)

11

113th (Harris) - art. 199(11)
125th (Harris) - art. 199(11)
127th (Harris) - art. 199(11)
129th (Harris) - art. 199(11)
133rd (Harris) - art. 199(11)
151st (Harris) - art. 199(11)
152nd (Harris) - art. 199(11)
157th (Harris) - art. 199(11)
164th (Harris) - art. 199(11)
165th (Harris) - art. 199(11)

11

In six courts, only criminal cases are to be filed:

178th (Harris) - arts. 199(11), 199(174)
176th (Harris) - arts. 199(11), 199(176)
177th (Harris) - arts. 199(11), 199(177)
178th (Harris) - arts. 199(11), 199(178)
179th (Harris) - arts. 199(11), 199(179)
180th (Harris) - arts. 199(11), 199(180)

12

Finally, for one court, the legislature has specified that criminal and tax cases only shall be filed:

49th (Webb) - art. 199(111)

13

As noted above, some 110 statutory county courts at law and 8 probate courts have been created, largely in metropolitan areas. While the jurisdiction of these courts is generally carved out of that given to the "constitutional" county courts, the statutes specify in a few instances that certain jurisdiction normally in the district court is to be exercised by the county court at law concurrently with the district court. Four county courts at law are given concurrent civil jurisdiction with the district courts in specified domestic relations matters:

14

County Court at Law No. 1 of Lubbock County (art. 1970-340)

County Court at Law No. 2 of Lubbock County (art. 1970-340.1)

County Court at Law of Orange County (art. 1970-349A)

County Court at Law of Webb County (art. 1970-360)

Four county courts at law have concurrent jurisdiction with the district court in specified family law matters, eminent domain cases and civil cases when the matter in controversy does not exceed $10,000:

15

County Court at Law of Comal County (art. 1970-368)

County Court at Law of Randall County (art. 1970-371)

County Court at Law of Reeves County (art. 1970-373)

County Court at Law of Walker County (art. 1970-367)

Two county courts at law have concurrent jurisdiction with the district court in specified family law matters, eminent domain cases and civil cases when the matter in controversy does not exceed $20,000:

16

County Court at Law of Hays County (art. 1970-358)

County Court at Law of Medina County (art. 1970-376)

Two county courts at law have concurrent jurisdiction with the district court in specified family law matters and civil cases when the matter in controversy does not exceed $10,000:

17

County Court at Law of Val Verde County (art. 1970-373)

County Court at Law of Wichita County (art. 1970-166d)

Ten county courts at law have, by special statute, concurrent jurisdiction with the district courts in eminent domain matters:

18

County Court at Law of Victoria County (art. 1970-356)

County Court at Law No. 2 of McLennan County (art. 1970-298d)

County Court of Dallas County at Law No. 1 (art. 1970-31.2)

County Court of Dallas County at Law No. 2 (art. 1970-31.2)

County Court of Dallas County at Law No. 3 (art. 1970-31.2)

County Court of Dallas County at Law No. 4 (art. 1970-31.2)

County Court of Dallas County at Law No. 5 (art. 1970-31.2)

County Court at Law No. 2 of Hidalgo County (art. 1970-341a)

County Court at Law of Midland County (art. 1970-370)

County Court at Law of Wise County (art. 1970-374)

Seven county courts at law have concurrent jurisdiction with the district court in eminent domain cases and civil cases when the matter in controversy does not exceed $10,000:

19

County Court at Law of Angelina County (art. 1970-355)

County Court at Law No. 1 of Brazoria County (art. 1970-357)

County Court at Law No. 2 of Brazoria County (art. 1970-357)

County Court No. 1 of Galveston County (art. 1970-342a)

County Court No. 2 of Galveston County (art. 1970-342b)

Probate and County Court of Galveston County (art. 1970-342)

County Court at Law of Tom Green County (art. 1970-369)

Five county courts at law have concurrent jurisdiction with the district court in eminent domain cases and civil cases when the matter in controversy does not exceed $20,000:

- County Court at Law No. 2 of Cameron County (art. 1970-305c)
- County Court at Law No. 2 of Collin County (art. 1970-382a)
- County Court at Law of Gregg County (art. 1970-375)
- County Court at Law No. 3 of Hidalgo County (art. 1970-341b)
- County Court at Law No. 2 of Victoria County (art. 1970-356a, eff. 1/1/82, or earlier as determined by the county commissioners)

} 20

One county court at law has concurrent jurisdiction with the district court in civil cases when the matter in controversy does not exceed $20,000:

- County Court at Law No. 2 of Denton County (art. 1970-352a, eff. 1/1/82, or earlier as determined by the county commissioners)

} 21

Finally, the statute creating one criminal district court provides that it shall have concurrent jurisdiction with the county courts at law in the county in matters of county court criminal jurisdiction:

- Criminal District Court of Jefferson County (art. 1926-61)

} 22

A wide variety of statutory changes have been made blurring the line between district court-level jurisdiction and county court-level jurisdiction. In eight counties, all civil and criminal jurisdiction of the county court, except probate, has been transferred to the district court:

- Bowie (5th, 102nd, 202nd District Courts) - art. 1970-306
- Cass (5th District Court) - Acts 1879, ch. 25, p. 21; Acts 1971, ch. 273, p. 1198
- Falls (82nd District Court) - Acts 1917, ch. 89, p. 243; Acts 1975, ch. 39, p. 84
- Jones (259th District Court) - art. 199a, sec. 3.085(b)
- Robertson (20th District Court) - Acts 1917, ch. 96, p. 256
- Shackelford (259th District Court) - art. 199a, sec. 3.085(b)
- Stephens (90th District Court) - art. 1970-321
- Webb (49th, 111th District Courts) - Acts 1889, ch. 9, p. 5

} 8

In two counties, all civil and criminal jurisdiction of the county court, except probate and eminent domain, has been transferred to the district court (by general statute enacted in 1971 (art. 326a), all "constitutional" county courts were divested of eminent domain jurisdiction):

- Comal (22nd District Court) - Acts 1883, ch. 35, p. 24
- Mason (33rd District Court) - Acts 1887, ch. 73, p. 54

} 24

All civil and criminal jurisdiction of the county court, except probate, eminent domain and jurisdiction to receive guilty pleas in misdemeanor cases has been transferred to the district court in one county:

- Eastland (91st District Court) - art. 1970-141a

} 25

In another county, all county civil and criminal jurisdiction of the county court, except probate and eminent domain, has been transferred to the district court, and the two levels of courts have concurrent jurisdiction to receive guilty pleas in misdemeanor cases:

- Marion (76th, 115th District Courts) - Acts 1887, ch. 36, p. 38; art. 1970-322a

} 26

In another county, all county court civil and criminal cases appealed from justice of the peace courts, except probate and eminent domain, have been transferred to the district court, and the two levels of courts have concurrent jurisdiction in juvenile delinquency cases and in cases where the county court would have had original criminal jurisdiction:

Red River (102nd District Court) - art. 1970-314a — 27

All civil jurisdiction of the county court, except probate and eminent domain, has been transferred to the district court in four counties:

Hills (39th District Court) - Acts 1887, ch. 97, p. 109; Acts 1907, ch. 101, p. 199

Sabine (1st District Court) - Acts 1989, 2nd C.S., ch. 7, p. 90

San Augustine (1st District Court) - Acts 1989, 2nd C.S., ch. 7, p. 90

Wichita (89th District Court) - art. 1970-166b — 28

In one county all civil jurisdiction of the county court, except probate, has been transferred to the district court:

Glasscock (118th District Court) - art. 1970-320 and Acts 1957, ch. 196, p. 389 — 29

In another county, all civil and eminent domain jurisdiction of the county court has been transferred to the district court:

Navarro (13th District Court) - art. 1970-326 — 30

Finally, in six counties, the general jurisdiction in eminent domain cases alone has been transferred from the county to the district courts by special statutes. In 1971, all "constitutional" county courts were divested of eminent domain jurisdiction (art. 3264a):

Camp (76th District Court) - Acts 1971, ch. 582, p. 1952

Fannin (6th District Court) - Acts 1971, ch. 89, p. 820

Gonzales (25th, 2nd 25th District Courts) - Acts 1957, ch. 383, p. 867

Hopkins (8th, 62nd District Courts) - Acts 1967, ch. 44, p. 84

Morris (76th District Court) - Acts 1967, ch. 378, p. 872; Acts 1969, ch. 246, p. 707

Tarrant - art. 1970-62.1 — 31

Rather than transfer jurisdiction absolutely from the county court to the district court, the legislature has in several instances given both the district and county courts concurrent jurisdiction in certain matters. Seven district courts have concurrent criminal jurisdiction with the county court in matters normally in the county court:

207th (Caldwell) - art. 199a, sec. 3.035(b)

Criminal District Court of Dallas County - art. 1926-21

Criminal District Court No. 2 of Dallas County - art. 1926-21

Criminal District Court No. 1 of Tarrant County - art. 1926-41

Criminal District Court No. 2 of Tarrant County - art. 1926-43

Criminal District Court No. 3 of Tarrant County - art. 1926-44

Criminal District Court No. 4 of Tarrant County - art. 1926-46 — 32

In two counties, the district and county court have concurrent jurisdiction in all matters normally in the county court and the district court assigns cases to the county court:

Hill (66th District Court) - arts. 1970-333; 1970-333a

Johnson (18th District Court) - art. 1970-335 — 33

COUNTY-LEVEL COURTS

Generally speaking, "constitutional" county courts have concurrent jurisdiction with justice of the peace courts in civil cases wherein the amount in controversy is $200 or more and less than $500, general jurisdiction over probate cases and exclusive original jurisdiction over all misdemeanors whose punishment for the offense upon conviction is by fine exceeding $200 or where a jail sentence not to exceed two years may be imposed. However, the county courts do not have criminal jurisdiction where a criminal district

court exists unless expressly authorized by statute (Tex. Const. art. V, sec. 16). County courts generally have appellate jurisdiction over cases tried originally in the justice of the peace and municipal courts upon trial de novo.

In general, county courts at law have concurrent jurisdiction with district courts in civil matters where the amount in controversy is at least $200 and not more than $5,000. Other jurisdiction of a county court at law is, broadly speaking, either carved out of the "constitutional" county court's regular jurisdiction or shared with it (concurrent).

The jurisdiction of county courts at law and their relation to the "constitutional" county courts takes many forms. In the creation of three county courts at law, all civil, criminal and probate jurisdiction of the county court was transferred to the county court at law:

- County Court at Law of Houston County (art. 1970-355)
- County Court at Law of Nacogdoches County (art. 1970-361)
- County Court at Law of Reeves County (art. 1970-373)

34

In the creation of eighteen county courts at law, all civil and criminal jurisdiction of the county court was transferred to the county court at law and it was provided that the courts would have concurrent jurisdiction in probate matters:

- County Court at Law No. 4 of Bexar County (art. 1970-301a.1)
- County Court at Law No. 6 of Bexar County (art. 1970-301f)
- County Court at Law of Brazos County (art. 1970-369)
- County Court at Law of Cameron County (art. 1970-305)
- County Court at Law No. 2 of Cameron County (art. 1970-305c)
- County Court at Law of Collin County (art. 1970-362)
- County Court at Law No. 2 of Collin County (art. 1970-362a)

35

- County Court at Law No. 1 of El Paso County (arts. 1970-128, 1970-141.1)
- County Court at Law No. 2 of El Paso County (art. 1970-141.2)
- County Court at Law No. 4 of El Paso County (art. 1970-141.3)
- County Court at Law No. 2 of Grayson County (art. 1970-332a)
- County Court at Law of Hidalgo County (art. 1970-341)
- County Court at Law No. 2 of Hidalgo County (art. 1970-341a)
- County Court at Law No. 3 of Hidalgo County (art. 1970-341b)
- County Court at Law No. 1 of Lubbock County (art. 1970-340)
- County Court at Law No. 2 of Lubbock County (art. 1970-340.1)
- County Court at Law of Walker County (art. 1970-357)
- County Court at Law of Webb County (art. 1970-360)

36

One county court at law was created to exercise concurrent jurisdiction with the district court in all civil and criminal matters, which had earlier been transferred from the county court to the district court. The county court at law and county court have concurrent probate jurisdiction:

- County Court at Law of Comal County (art. 1970-368)

38

The legislature provided, in the creation of three county courts at law, that all civil and criminal jurisdiction of the county court, except probate, was transferred to the county court at law, and that the judge of the county court at law could "act for" the constitutional county judge in probate matters:

- County Court at Law No. 3 of Bexar County (art. 1970-301d)
- County Court of Jefferson County at Law (arts. 1970-112, 1970-113)

37

County Court of Jefferson County at Law No. 2 (art. 1970-126a) — 37

For four county courts at law, all civil and criminal jurisdiction of the county court, except probate, was transferred to the county court at law:

County Court at Law No. 1 of Bexar County (arts. 1970-64, 1970-301)

County Court at Law No. 2 of Bexar County (art. 1970-301)

County Court at Law No. 5 of Bexar County (art. 1970-301e.1) — 38

County Court at Law of Grayson County (art. 1970-332)

In one county, all civil, criminal and juvenile jurisdiction of the county court, except probate, was transferred to the county court at law, and it was provided that the courts were to have concurrent jurisdiction in eminent domain cases:

County Court at Law of Taylor County (art. 1970-343) — 39

Five county courts at law were created with the provision that all civil and criminal jurisdiction of the county court was transferred to the county court at law and the courts would have concurrent jurisdiction in both probate and eminent domain cases:

County Court at Law No. 3 of Nueces County (arts. 1970-339B, 1970-339C)

County Court at Law No. 1 of Travis County (arts. 1970-324, 1970-324d)

County Court at Law No. 2 of Travis County (arts. 1970-324a, 1970-324d) — 40

County Court at Law No. 3 of Travis County (arts. 1970-324a.1, 1970-324d)

County Court at Law No. 4 of Travis County (arts. 1970-324a.2, 1970-324d)

In one instance, all civil and criminal jurisdiction of the county court was transferred to the county court at law, the courts have concurrent jurisdiction in probate and eminent domain and the county court at law is instructed to give preference to original jurisdiction criminal cases:

County Court at Law No. 1 of Nueces County (arts. 1970-339, 1970-339A, 1970-339C) — 41

Similarly, another county court at law in the same county was transferred all civil and criminal jurisdiction of the county court, the courts have concurrent jurisdiction in probate and eminent domain and the county court at law is instructed to give preference to civil cases and criminal cases appealed from courts of inferior jurisdiction:

County Court at Law No. 2 of Nueces County (arts. 1970-339A, 1970-339C) — 42

When the four Harris County civil courts at law were created, it was provided that all civil and eminent domain jurisdiction of the county court, except probate, was transferred to them:

County Civil Court at Law No. 1 of Harris County (art. 1970-79)

County Civil Court at Law No. 2 of Harris County (art. 1970-110d)

County Civil Court at Law No. 3 of Harris County (art. 1970-110e) — 43

County Civil Court at Law No. 4 of Harris County (art. 1970-110f)

For one county court at law, all civil jurisdiction of the county court, except probate, was transferred to it, and it was provided that the courts would have concurrent criminal jurisdiction:

County Court at Law No. 1 of Tarrant County (arts. 1970-33, 1970-34) — 44

For another in the same county, all civil jurisdiction of the county court was transferred to the county court at law and it was provided that the courts would have concurrent probate jurisdiction:

County Court at Law No. 2 of Tarrant County (art. 1970-62.2) — 45

Eminent domain jurisdiction was transferred to two county courts at law, and in all other matters the county court at law and "constitutional" county court have concurrent jurisdiction:

County Court at Law of McLennan County (art. 1970-298b) — 46

County Court at Law No. 2 of Hideman County (art. 1970-298d) — 46

In twenty-four instances, the "constitutional" county court and the county court(s) at law have concurrent jurisdiction in all matters:

County Court at Law of Angelina County (art. 1970-366)

County Court at Law No. 1 of Bell County (art. 1970-350)

County Court at Law No. 2 of Bell County (art. 1970-350a)

County Court at Law No. 1 of Brazoria County (art. 1970-357)

County Court at Law No. 2 of Brazoria County (art. 1970-357)

County Court at Law of Denton County (art. 1970-352)

County Court at Law No. 2 of Denton County (art. 1970-352a, eff. 1/1/82, or earlier as may be determined by the county commissioners)

County Court at Law of Ector County (art. 1970-346) — 47

County Court at Law of Fort Bend County (art. 1970-364)

County Court at Law of Gregg County (art. 1970-375)

County Court at Law of Harrison County (art. 1970-223a)

County Court at Law of Hunt County (art. 1970-354)

County Court at Law No. 1 of Montgomery County (art. 1970-363)

County Court at Law of Medina County (art. 1970-376)

County Court at Law of Midland County (art. 1970-370)

County Court at Law of Orange County (arts. 1970-349, 1970-349A)

County Court at Law No. 2 of Potter County (art. 1970-311b)

County Court at Law of Randall County (art. 1970-371)

County Court at Law of Smith County (art. 1970-348)

County Court at Law No. 2 of Smith County (art. 1970-348a)

County Court at Law of Tom Green County (art. 1970-369) — 47

County Court at Law of Val Verde County (art. 1970-373)

County Court at Law of Victoria County (art. 1970-356)

County Court at Law No. 2 of Victoria County (art. 1970-356a, eff. 1/1/82, or earlier as may be determined by the county commissioners)

In two counties, concurrent jurisdiction may be exercised by the "constitutional" county court and the county court at law in all matters except probate and eminent domain, of which the county court retains exclusive jurisdiction (eminent domain jurisdiction was transferred out of all "constitutional" county courts by general law in 1971):

County Court at Law of Nolan County (art. 1970-347)

County Court at Law of Potter County (art. 1970-311a) — 48

In one county, concurrent jurisdiction may be exercised by the "constitutional" county court and the county court at law in all matters except probate, eminent domain, and civil cases $200 to $500, of which the county court retains exclusive jurisdiction (eminent domain jurisdiction was transferred out of all "constitutional" county courts by general law in 1971):

County Court at Law of Wichita County (art. 1970-166d) — 49

Six of the county courts at law have concurrent jurisdiction with the "constitutional" county court in all matters except probate:

County Court of Dallas County at Law No. 1 (art. 1970-3)

County Court of Dallas County at Law No. 2 (art. 1970-16)

County Court of Dallas County at Law No. 3 (art. 1970-31.1)

County Court of Dallas County at Law No. 4 (art. 1970-31.1)

County Court of Dallas County at Law No. 5 (art. 1970-31.2)

County Court at Law of Henderson County (art. 1970-306)(inactive)

50

In two counties, the county court and the county court at law have concurrent jurisdiction in all matters except eminent domain:

County Court at Law of Guadalupe County (art. 1970-351)

County Court at Law of Hays County (art. 1970-358)

51

Two county courts at law were created with the proviso that they and the county court were to have concurrent jurisdiction in all matters, but that no probate cases were to be filed in the county court at law:

County Court No. 1 of Galveston County (art. 1970-342a)

County Court No. 2 of Galveston County (art. 1970-342b)

52

In three counties, the probate jurisdiction of the county court has been vested in specialized probate courts. Under the provisions of a constitutional amendment adopted in 1973, proceedings in these specialized probate courts are on the record and appeals therefrom are to appropriate court of civil appeals rather than to the district court on trial de novo as is the requirement for probate cases tried in the "constitutional" county courts. The statutes creating six of these probate courts provide that they are to have concurrent probate jurisdiction only with the "constitutional" county court:

Probate Court of Dallas County (art. 1970-31a) 53

Probate Court No. 2 of Dallas County (arts. 1970-31a, 1970-31b)

Probate Court No. 3 of Dallas County (art. 1970-31c)

Probate Court No. 1 of Harris County (art. 1970-110a)

Probate Court No. 2 of Harris County (art. 1970-110a.2)

Probate Court of Tarrant County (art. 1970-345)

53

One probate court has concurrent jurisdiction only with the "constitutional" county court and is to have "primary" responsibility at all times for all mental illness proceedings:

Probate Court No. 3 of Harris County (art. 1970-110a.3) 54

Another specialized probate court, however, has concurrent jurisdiction with the "constitutional" county court in all matters, but only probate cases are to be filed in the probate court:

Probate and County Court of Galveston County (art. 1970-342) 55

Some county courts at law have been created primarily to handle criminal cases. Most of these (22) are limited to criminal cases, concurrent with the "constitutional" county court:

County Criminal Court of Dallas County (art. 1970-31.10)

County Criminal Court No. 2 of Dallas County (art. 1970-31.11)

County Criminal Court No. 3 of Dallas County (art. 1970-31.12)

County Criminal Court No. 4 of Dallas County (art. 1970-31.13)

County Criminal Court No. 5 of Dallas County (art. 1970-31.14)

County Criminal Court No. 6 of Dallas County (art. 1970-31.15)

56

County Criminal Court No. 7 of Dallas County (art. 1970-31.15)

County Criminal Court No. 8 of Dallas County (art. 1970-31.16)

County Criminal Court No. 9 of Dallas County (art. 1970-31.17)

County Criminal Court No. 10 of Dallas County (art. 1970-31.18)

County Criminal Court at Law No. 1 of Harris County (art. 1970-96)

County Criminal Court at Law No. 2 of Harris County (art. 1970-31.11)

County Criminal Court at Law No. 3 of Harris County (art. 1970-110c)

County Criminal Court at Law No. 4 of Harris County (art. 1970-110c.1)

County Criminal Court at Law No. 5 of Harris County (art. 1970-110c.2)

County Criminal Court at Law No. 6 of Harris County (art. 1970-110c.2)

County Criminal Court at Law No. 7 of Harris County (art. 1970-110c.2)

County Criminal Court at Law No. 8 of Harris County (art. 1970-110c.3)

County Criminal Court at Law No. 9 of Harris County (art. 1970-110c.3)

County Criminal Court at Law No. 10 of Harris County (art. 1970-110c.4)

County Criminal Court No. 1 of Tarrant County (art. 1970-62a)

County Criminal Court at Law No. 2 of Tarrant County (art. 1970-62b)

56

Four county courts at law have concurrent jurisdiction with the "constitutional" county court in criminal matters, and further have sole jurisdiction of appeals from justice of the peace and municipal courts:

County Criminal Court of Appeals of Dallas County (art. 1970-31.20)

57

County Criminal Court of Appeals No. 2 of Dallas County (art. 1970-31.12)

County Criminal Court No. 3 of Tarrant County (art. 1970-62c)

County Criminal Court No. 4 of Tarrant County (art. 1970-62d)

57

JUSTICE OF THE PEACE COURTS

Justice of the peace courts have original jurisdiction in civil cases wherein the amount in controversy does not exceed $900 and in criminal misdemeanors where punishment is by fine only not to exceed $200. The justice of the peace courts also function as small claims courts in disputes over unpaid wages and salaries where the contested amount does not exceed $200 and in controversies over uncollected bills where the amount does not exceed $150. Trials in justice of the peace courts are not of record. Appeals from these courts are upon trial de novo in the county court, the county court at law, or the district court.

In 32 counties, the county court by special statute has been given concurrent civil jurisdiction with justice of the peace courts in that county:

Armstrong (art. 1970-193)

Atascosa (Acts 1915, ch. 88, p. 141)

Bailey (Acts 1911, ch. 93, p. 171)

Burleson (art. 1970-242)

Cochran (arts. 1970-205, 1970-224)

Collingsworth (art. 1970-315)

Colorado (art. 1970-205)

Crosby (art. 1970-317)

Dawson (Acts 1915, ch. 88, p. 141)

Deaf Smith (art. 1970-209)

Dickens (Acts 1915, ch.59, p. 109)

Fisher (art. 1970-317)

Gaines (Acts 1915, ch. 88, p. 141)

58

Garza (Acts 1915, ch. 88, p. 141)

Goliad (Acts 1885, ch. 45, p. 57)

Gonzales (Acts 1957, ch. 127, sec. 1, p. 278)

Haskell (Acts 1919, ch. 33, p. 55)

Hemphill (Acts 1915, ch. 125, p. 192)

Hockley (art. 1970-234)

Kent (art. 1970-334)

Lamb (Acts 1911, ch. 93, p. 171)

Lee (art. 1970-242)

Lynn (Acts 1915, ch. 88, p. 141)

McMullen (Acts 1915, ch. 88, p. 141)

Mitchell (Acts 1919, ch. 11, p. 15)

Parmer (art. 1970-209)

Randall (art. 1970-309)

Scurry (Acts 1919, 2d C.S., ch. 13, p. 39)

Stonewall (art. 1970-352)

Terry (Acts 1915, ch. 88, p. 141)

Washington (art. 1970-308)

Yoakum (Acts 1915, ch. 88, p. 141)

} 58

In two additional counties, the county court at law has by special statute been given concurrent civil jurisdiction with the justice of the peace courts:

County Court at Law of Nolan County (art. 1970-347)(inactive)

County Court at Law of Potter County (art. 1970-311a)

County Court at Law No. 2 of Potter County (art. 1970-311b)

} 59

The county court in eight counties has been given concurrent jurisdiction with the justice of the peace courts in both civil and criminal matters:

Blanco (art. 1970-337, sec. 4)

Edwards (art. 1970-330a, sec. 4)

Gillespie (art. 1970-312)

Irion (art. 1970-304)

Kimble (Acts 1931, ch. 320, p. 793)

Menard (art. 1970-332)

Schleicher (Acts 1931, ch. 298, p. 754)

Sterling (art. 1970-316)

} 60

Nine county courts at law have been given concurrent jurisdiction with the justice of the peace courts in the county in both civil and criminal cases:

County Court at Law of Cameron County (art. 1970-306)

County Court at Law No. 2 of Cameron County (art. 1970-306c)

County Court at Law of Grayson County (art. 1970-332)

County Court at Law No. 2 of Grayson County (art. 1970-332a)

County Court at Law No. 1 of Lubbock County (art. 1970-340)

County Court at Law No. 2 of Lubbock County (art. 1970-340.1)

County Court at Law No. 1 of Nueces County (art. 1970-339)

County Court at Law No. 2 of Nueces County (art. 1970-339A)

County Court at Law No. 3 of Nueces County (art. 1970-339C)

} 61

Finally, one county court at law has been given concurrent jurisdiction with the justice of the peace courts in the county in criminal matters only:

County Court at Law No. 1 of Montgomery County (art. 1970-363)	62

MUNICIPAL COURTS

Municipal courts have original and exclusive jurisdiction over purported violations of city ordinances and concurrent jurisdiction with justice of the peace courts over state misdemeanors occuring within the jurisdiction of the municipality where punishment upon conviction is by fine only not to exceed $200.

Trials in all but seven municipal courts are not of record with appeals therefrom going to the county court, the county court at law, or the district court upon trial de novo. The municipal courts of El Paso, Houston, Longview, Lubbock, Midland, Sweetwater and Wichita Falls, were created by special statutes as municipal courts of record with appeals therefrom going to the county court on the record perfected in the municipal court.

INDEX TO SUBJECT-MATTER JURISDICTION
REFERENCE NUMBERS

JUDICIAL DISTRICT REFERENCES

District	Reference Number
1	28
2	23
3	31
4	31
5	11
6	30
7	1
8	11
9	23
10	23
11	28
12	1
13	1
14	1
15	1
16	23
17	1
18	23
19	28
20	28
21	1
22	1
23	1
24	1
25	31
26	28
27	1
28	1
29	28
30	1
31	1
32	1
33	1
34	1
35	1
36	1
37	1
38	1
39	1
40	1
41	1
42	31
43	23
44	1
45	1
46	1
47	1
48	1
49	1
50	1
51	1
52	1
53	1
54	1
55	1
56	1
57	1
58	1
59	1
60	1
61	1
62	1
63	1
64	1
65	1
66	1
67	1
68	1
69	1
70	1
71	1
72	1
73	1
74	28,31
75	1
76	1
77	1
78	1
79	1
80	1
81	1
82	1
83	1
84	1
85	1
86	1
87	1
88	1
89	1
90	1
91	1
92	1
93	1
94	1
95	1
96	1
97	1
98	1
99	1
100	1
101	1
102	1
103	1
104	1
105	1
106	1
107	1
108	1
109	1
110	1
111	1
112	1
113	1
114	1
115	1
116	1
117	1
118	1
119	1
120	1
121	1
122	1
123	1
124	1
125	1
126	1
127	1
128	1
129	1
130	1
131	1
132	1
133	1
134	1
135	1
136	1
137	1
138	1
139	1
140	1
141	1
142	1
143	1
144	1
145	1
146	1
147	1
148	1
149	1
150	1
151	1
152	1
153	1
154	1
155	1
156	1
157	1
158	1
159	1
160	1
161	1
162	1
163	1
164	1
165	1
166	1
167	1
168	1
169	1
170	1
171	1
172	1
173	1
174	1
175	1
176	1
177	1
178	1
179	1
180	1
181	1
182	1
183	1
184	1
185	1
186	1
187	1
188	1
189	1
190	1
191	1
192	1
193	1
194	1
195	1
196	1
197	1
198	1
199	1
200	1
201	1
202	1
203	1
204	1
205	1
206	1
207	1
208	1
209	1
210	1
211	1
212	1
213	1
214	1
215	1
216	1
217	1
218	1
219	1
220	1
221	1
222	1
223	1
224	1
225	1
226	1
227	1
228	1
229	1
230	1

CRIMINAL DISTRICT COURT REFERENCES

COURT	REFERENCE NUMBER
Criminal District Court of Dallas County	3,32
Criminal District Court No. 2 of Dallas County	3,32
Criminal District Court No. 3 of Dallas County	3
Criminal District Court of Jefferson County	3,32
Criminal District Court No. 1 of Tarrant County	3,32
Criminal District Court No. 2 of Tarrant County	3,32
Criminal District Court No. 3 of Tarrant County	3,32
Criminal District Court No. 4 of Tarrant County	3,32

COUNTY REFERENCES

County	Reference Number
Anderson	1
Andrews	28
Angelina	28
Aransas	28
Archer	28
Armstrong	1
Atascosa	28
Austin	1
Bailey	28
Bandera	1
Bastrop	1
Baylor	28
Bee	1
Bell	47
Bexar	1,3,4,6,7, 28,37,38
Blanco	28
Borden	28
Bosque	8,28
Bowie	28
Brazoria	10,28,47
Brazos	28
Brewster	28
Briscoe	28
Brooks	28
Brown	1,32
Burleson	28
Burnet	1
Caldwell	1,32
Calhoun	1
Callahan	28
Cameron	1,7,28, 38,43
Camp	28
Carson	28
Cass	28
Castro	28
Chambers	28
Cherokee	28
Childress	28,28
Clay	28
Cochran	28
Coke	28
Coleman	28
Collin	28,28
Collingsworth	28
Colorado	28
Comal	1
Comanche	28
Concho	28
Cooke	28
Coryell	1,32
Cottle	28
Crane	28
Crockett	28
Crosby	28
Culberson	28
Dallam	1,3,4,6, 28,32,38
Dallas	1,3,4,6, 28,32,38
Dawson	28
Deaf Smith	28
Delta	28
Denton	21,47
Dickens	28
Dimmit	28
Donley	28
Duval	28
Eastland	28
Ector	47
Edwards	28
El Paso	4,28,38
Ellis	28
Erath	28
Falls	28
Fannin	28
Fayette	28
Fisher	28
Floyd	28
Foard	28
Fort Bend	28,47
Franklin	28
Freestone	28
Frio	28
Gaines	28
Galveston	28,28, 47,28
Garza	28
Gillespie	28
Glasscock	28
Goliad	1,28
Gonzales	28,28
Gray	28,28,43
Grayson	28,28,43
Gregg	28,28,47
Grimes	28
Guadalupe	28
Hale	28
Hall	28
Hamilton	28
Hansford	28
Hardeman	28
Hardin	28
Harris	4,7,8,28
Harrison	47
Hartley	28
Haskell	28
Hays	4,28,38
Hemphill	28
Henderson	28
Hidalgo	28,28,38
Hill	28
Hockley	28
Hopkins	28
Houston	28
Howard	28
Hudspeth	28
Hunt	47
Hutchinson	28
Irion	28
Jackson	1
Jefferson	1,3,4, 28,32,37
Jim Hogg	28,28
Jim Wells	28
Johnson	28
Jones	28
Karnes	28
Kaufman	28
Kendall	28
Kenedy	28
Kent	28
Kerr	28
Kimble	28
King	28
Kinney	28
Kleberg	28
Knox	28
La Salle	28
Lamar	28
Lamb	28
Lampasas	28
Lavaca	28
Lee	28
Leon	28
Liberty	28
Limestone	28
Lipscomb	28
Live Oak	1
Llano	28
Loving	28
Lubbock	14,28,43
Lynn	28
McCulloch	28
McLennan	28
McMullen	1,28
Madison	28
Marion	28
Martin	28
Mason	28
Matagorda	28,28
Maverick	28
Medina	28,47
Menard	28
Midland	28,28,47
Milam	28
Mills	28
Mitchell	28
Montague	47,32
Montgomery	28
Moore	28
Morris	28
Motley	28
Nacogdoches	28
Navarro	28
Newton	28
Nolan	28,28
Nueces	4,6,28, 38,43
Ochiltree	28
Oldham	28
Orange	28,47
Palo Pinto	28
Panola	28
Parker	28,47
Parmer	28,28
Pecos	28
Polk	28
Potter	28,47
Presidio	28
Rains	28,28
Randall	28,47,28
Reagan	28
Real	28
Red River	28
Reeves	28
Refugio	28
Roberts	28
Robertson	28,28
Rockwall	28
Runnels	28
Rusk	28
Sabine	28
San Augustine	28
San Jacinto	28
San Patricio	28
San Saba	28
Schleicher	28
Scurry	28
Shackelford	28
Shelby	28,47
Sherman	28
Smith	28,47
Somervell	28
Starr	28
Stephens	28
Sterling	28
Stonewall	28
Sutton	28
Swisher	28
Tarrant	1,3,4, 28,32,38, 43,47,28
Taylor	28,28
Terry	28
Throckmorton	28,47
Titus	4,28
Tom Green	28,47
Travis	4,28, 38,47,28
Trinity	28
Tyler	28
Upshur	28,28
Upton	28
Uvalde	28,28
Val Verde	28,47
Van Zandt	28
Victoria	28,28, 38,43,28
Walker	28,28
Waller	28
Ward	28
Washington	28
Webb	28,28, 38,43
Wharton	28
Wheeler	28
Wichita	28,28,43
Wilbarger	28,47
Willacy	28,47
Williamson	28
Wilson	28
Winkler	28
Wise	28
Wood	28
Yoakum	28
Young	28
Zapata	28
Zavala	28

LIST OF COUNTIES IN
SUPREME JUDICIAL DISTRICTS
(COURTS OF CIVIL APPEALS)

FIRST
Austin
Brazoria
Brazos
Burleson
Chambers
Colorado
Fort Bend
Galveston
Grimes
Harris
Trinity
Walker
Waller
Washington

SECOND
Archer
Clay
Cooke
Denton
Hood
Jack
Montague
Parker
Tarrant
Wichita
Wise
Young

THIRD
Bastrop
Bell
Blanco
Burnet
Caldwell
Coke
Comal
Concho
Fayette
Hays
Irion
Lampasas
Lee
Llano
McCulloch
Milam
Mills
Runnels
San Saba
Schleicher
Sterling
Tom Green
Travis
Williamson

FOURTH
Atascosa
Bandera
Bexar
Brooks
Dimmit
Duval

FOURTH (cont'd)
Edwards
Frio
Gillespie
Guadalupe
Jim Hogg
Jim Wells
Karnes
Kendall
Kerr
Kimble
Kinney
LaSalle
McMullen
Mason
Maverick
Medina
Menard
Real
Starr
Sutton
Uvalde
Val Verde
Webb
Wilson
Zapata
Zavala

FIFTH
Collin
Dallas
Grayson
Hunt
Kaufman
Rockwall
Van Zandt

SIXTH
Bowie
Camp
Cass
Delta
Fannin
Franklin
Gregg
Harrison
Hopkins
Hunt
Lamar
Marion
Morris
Panola
Red River
Rusk
Titus
Upshur
Wood

SEVENTH
Armstrong
Bailey

SEVENTH (cont'd)
Briscoe
Carson
Castro
Childress
Cochran
Collingsworth
Cottle
Crosby
Dallam
Deaf Smith
Dickens
Donley
Floyd
Foard
Garza
Gray
Hale
Hall
Hansford
Hardeman
Hartley
Hemphill
Hockley
Hutchinson
Kent
King
Lamb
Lipscomb
Lubbock
Lynn
Moore
Motley
Ochiltree
Oldham
Parmer
Potter
Randall
Roberts
Sherman
Swisher
Terry
Wheeler
Wilbarger
Yoakum

EIGHTH
Andrews
Brewster
Crane
Crockett
Culberson
Ector
El Paso
Gaines
Glasscock
Hudspeth
Jeff Davis
Loving
Martin
Midland

EIGHTH (cont'd)
Pecos
Presidio
Reagan
Reeves
Terrell
Upton
Ward
Winkler

NINTH
Angelina
Hardin
Jasper
Jefferson
Liberty
Montgomery
Newton
Orange
Polk
San Jacinto
Tyler

TENTH
Bosque
Brazos
Coryell
Ellis
Falls
Freestone
Hamilton
Hill
Johnson
Leon
Limestone
McLennan
Madison
Navarro
Robertson
Somervell

ELEVENTH
Baylor
Borden
Brown
Callahan
Coleman
Comanche
Dawson
Eastland
Erath
Fisher
Haskell
Howard
Jones
Knox
Mitchell
Nolan
Palo Pinto
Scurry
Shackelford
Stephens

ELEVENTH (cont'd)
Stonewall
Taylor
Throckmorton

TWELFTH
Anderson
Cherokee
Gregg
Henderson
Hopkins
Houston
Kaufman
Nacogdoches
Panola
Rains
Rusk
Sabine
Smith
San Augustine
Shelby
Upshur
Van Zandt
Wood

THIRTEENTH
Aransas
Bee
Calhoun
Cameron
DeWitt
Goliad
Gonzales
Hidalgo
Jackson
Kenedy
Kleberg
Lavaca
Live Oak
Matagorda
Nueces
Refugio
San Patricio
Victoria
Wharton
Willacy

FOURTEENTH
Austin
Brazoria
Brazos
Burleson
Chambers
Colorado
Fort Bend
Galveston
Grimes
Harris
Trinity
Walker
Waller
Washington